





# FAREWELL ADDRESS

FROM

W. CAMPBELL, M.L.C.,

TO

THE ELECTORS OF THE NORTH-WEST PROVINCE,

WITH

*His Speeches in the Legislative Council*

ON THE

INQUITY OF THE "LAND TAX ACT."

---

*Melbourne, 14th April, 1882.*

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## TO THE ELECTORS OF THE NORTH-WEST PROVINCE.

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DEAR FRIENDS, AND GENTLEMEN,—

On the eve of my departure from Victoria to visit my native home, after holding a seat in the Legislative Council for the last twenty years, I cannot refrain from expressing my gratitude for the honor you did me in twice electing me to that most honorable and most responsible office. I presume to say that I discharged my duties to the best of my humble ability, under an independent, fearless, patriotic feeling, and that I know no vote of mine that I would wish to rescind. I am aware that I am considered an ultra-Conservative, but my conservatism aimed only at the preservation of what was good in our laws and in our Constitution, and in the prevention of what was bad being enacted. I can conceive the consistency of a Radical, but not that of a lukewarm weathercock, who trims to every breeze. Although I have not taken a leading part in the Council, I flatter myself to have done some good work, such as the alteration of the Kerang railway from the way of Elmore to that of Eaglchawk, by which the State will save about £100,000, and travellers a distance of about eighteen miles.

I may add that I also had the honor, in 1851, of being one of the first of the twenty representative members of the first Legislative Council for the pastoral district now included in your Province, and I am the only member of that early body that now holds a seat in the Legislative Council. Political life entails sacrifice of time, and, except to place-hunters and recipients of members' pay, is unprofitable; but the honor of having a voice in the making of the laws is of more value to a true patriot than any other consideration. I therefore trust that the young men who have a permanent stake in this new land will look upon it in that light, and that they will not allow adventurers and professional politicians to monopolize the government of the State.

A most grievous law passed in 1877—I mean the "*Land Tax Act*"—which I feel justified in referring to at some length; and, in elucidation, I annex speeches made by me on that question in the Legislative Council, as reported in *Hansard*.

The effect of the land tax has been to depreciate the value of land, without even excepting the lands exempted from the tax, while, from the cheapness of money, land should otherwise have been relatively much enhanced in value; in fact, the imposition of such an iniquitous

tax has scared capitalists, great and small, from purchasing or from lending, under a feeling that a Parliament that has been guilty of the crime of confiscating a large proportion of the value of land may impose an equally unjust tax on mortgagees.

It therefore becomes a most important question as to how to cure the evil effect of such a law, which is certainly a sore disgrace to the Parliament of Victoria. Probably the most practicable course would be to amend the "*Land Tax Act*," so as to embrace all real property, great or small; a very small percentage, taken from the valuation made by the shires and municipalities, would be sufficient. The small owner of a few acres would only have a few pence to pay, and would not feel the tax, but he would participate in an improved state of the country. If there is a necessity of relieving the small owner of land from any pressure of taxation, why not take it off his tea and sugar and clothing? This would not only be a gain to him, but it would remove the stain of an iniquitous tax, which is a disgrace to our legislation. The Imperial Parliament recently passed an Irish Land Act under which owners have their rents fixed by commissioners, who may fix it fairly or may not; and Lord Cairns calls it confiscation. But, bad as it is, it is harmless compared with our land tax. It is general, whereas our tax exempts ninety-eight per cent. of the landholders.

It may be asked,—Why did such an act become law? It has been said that the public feeling was in favour of *such* a tax, but such is not true. No doubt, a land tax was mooted at the general election, but not an unjust, unequal, class tax. In fact, Mr. Cuthbert, who represented the Government in the Council, stated in his speech, on moving the "Reply to the Address" on the 26th June, 1877—"I don't know that the country has approved of any particular land tax." This statement (see *Hansard*), comes from one who represented two successive Administrations in direct opposition to each other, and who should be considered a good exponent of the voice of the people. It may, however, be affirmed that a desire to accommodate the Opposition in attempting to defeat the Berry Ministry had an injurious influence on several members of the Council, who wished for a change. Two important questions were then on the tapis, viz., Payment of Members and the Land Tax. The Opposition tactics were to reject the former, and allow the latter to pass; but both passed. The former is certainly impolitic, but it does not disgrace our statutes, as the latter does. This colony possesses rich lands and mines, temperate climate, and the most central position of any of the Australian colonies, and it only requires *just* laws to induce other colonists to make it their home; but if the holding of a few extra acres renders the owner liable to a penal class tax, it is likely to induce an emigration instead. I am not now liable to pay the land tax, nor am I unfavourable to a wide distribution of the lands in many hands; but cannot see why one who purchased land from the State at the price of the day should be taxed, while smaller owners are exempted.

Let us see what Dr. Adam Smith says on taxation. His first maxim is that "The subjects of every State ought to contribute towards the

support of the government as nearly as possible in proportion to their respective abilities ; that is, in proportion to the revenue which they respectively enjoy under the protection of the State."

J. Stuart Mill, who is a Liberal, follows Smith in these principles of justice, which are, I trust, inherent in the hearts of the mass of the people, but some of whom are frequently misled by designing, envious, impeccunious, wicked demagogues.

In 1881 an "*Amending Land Tax Bill*" was discussed by the Council, and rejected without a division. The following extracts are made from the speeches of members who voted for the Bill in 1877, most of whom bitterly regret the crime they committed then. Let us see what they have to say in palliation of their votes.

Mr. Balfour : "I conceived that it was only right that the Council should bow to the popular will, and that we should show ourselves prepared to submit to a tax on land, with the hope that the next time the same question arose the law should be amended so that its inequalities and unfairnesses should disappear, and its incidence become at least more equitable."

Mr. Robertson : "I voted for that Bill, not because I believed it was based on an equitable principle, but because we were assured that its enactment would bring political peace and rest, which the country wanted. That was my object in voting for the measure, and at the present time I scarcely know whether to compliment myself for the vote I gave on that occasion. There is no doubt that the '*Land Tax Act*' has had the effect of reducing the value of all country lands at least fifty per cent." Mr. Robertson gives the following quotation from J. S. Mill, on an exclusive tax on realised property :—"Should the scheme ever enlist a large party in its support, the fact would indicate a laxity of pecuniary integrity in national affairs scarcely inferior to American repudiation."

Mr. Wallace : "But, though I voted for the existing Act, I do not believe in the land tax. I do not believe in any class tax. I have seen the injury which the land tax has done, and I intend to vote against the present Bill."

Mr. Belcher : "I desire to say that I voted for the present '*Land Tax Act*' under the belief, as I stated at the time, that it would be the thin edge of the wedge for an all-round land tax. Since then I have found that I was wofully mistaken ; and I am not ashamed to acknowledge that I very much regret the vote which I gave on that occasion."

Mr. Sumner follows : "I am very much in the same position as the honorable gentleman who has just addressed the House. I believed in direct taxation, and was under the impression that the tax would be so extended as to be equitably distributed on all kinds of property."

It is most remarkable that a debate that extended over four nights should not have anyone to support the Bill, except the member representing the Government.

On the motion of Sir Charles Sladen, the following reasons were appended on the rejection of the Bill :—

1.—Because, under the pretence of raising revenue, the tax is in violation of the first four of the maxims, or principles, laid down by Adam Smith, and universally

accepted by political economists, namely :—"The subjects of every State ought to contribute to the support of the Government as nearly as possible in proportion to their respective abilities ; that is, in proportion to the revenue which they respectively enjoy under the protection of the State. In the observation or neglect of this maxim consists what is called the equality or inequality of taxation."

2.—Because the tax is really not imposed for revenue purposes (as publicly declared by the Chief Secretary and the Attorney-General), and no tax for other than revenue purposes should be imposed without due notice being first given of such intention.

3.—Because the tax, contrary to all principles of justice, is imposed upon the land of only 828 out of over 48,000 owners of freehold property, whilst the great bulk of other kinds of realised property is free from taxation.

4.—Because, in the words of J. S. Mill, "future buyers would acquire land at a reduction in price equivalent to the peculiar tax, which tax they would therefore escape from paying, while the original possessors would remain burthened with it, even after parting with the property, since they would have sold their land at a loss of value equivalent to the fee-simple of the tax. Its imposition would thus be tantamount to the confiscation for public uses of a percentage of their property, equal to the percentage laid on their income by the tax."

5.—Because it tends to lower the morale of the colony generally.

6.—Because it has sown the seeds of distrust as to the future, and has destroyed that confidence in the abiding security of property which, especially in a new country, ought rather to have been encouraged, and the effect has been to put a stop to improvements, and throw thousands out of employment ; and, moreover, it has rendered country lands unmarketable, so that an owner wishing to break up his property can only do so at a ruinous sacrifice.

7.—Because its injustice has deterred, and will continue to deter, capitalists from investing their money here ; and therefore the tax is opposed to the progress in wealth and importance of this colony, and everyone in it.

These seem to me to be sufficient reasons why we should set our faces against not only this Bill, but the Act of which it is supposed to be an amendment. Under all the circumstances, if we were to pass legislation of this kind, could we consider that we were acting wisely or justly ? As an independent House, as a branch of the Legislature, it is worth the while of honorable members to consider whether any pressure that may be brought to bear upon them should ever induce them so far to depart out of the course of upright and honest legislation as to make them guilty of doing what is not only not wise, but unjust. I say that honorable members should never allow themselves to be again put into such a position as they were placed in 1877. I cannot help believing that it was a great misfortune to the country that a majority of this Chamber committed themselves—I don't care for what purpose—to vote for placing on the statute-book an Act, the effect of which has been most disastrous during the time it has operated, and which must continue to be disastrous for years to come. I beg to propose, as an amendment on the motion for the second reading of the Bill—"That this Council, whilst recognising the justice and policy of imposing a tax upon land if all other realised property is taxed, at the same time regrets that it is unable to concur in the principles and provisions of this Bill, and that therefore this Bill be read a second time this day six months."

The amendment was agreed to.

These extracts show the almost unanimous condemnation of the tax, and suggest that it should be amended so as to embrace all real property, and thereby restore confidence.

I trust that this letter may attract your attention, and also the attention of the mass of the people, to the existence of such a wicked law, and that this exposure may help to bring about a just and equitable amendment of the "*Land Tax Act*."

The Imperial Parliament gave us a good sound constitution, but unfortunately gave us also a power to alter it, under which power we have abolished the qualification of voters to the Assembly, and lowered that of the voters of the Legislative Council from £100 to £10. I think these evil changes were unnecessary, as the agitators for reform were only exciting the people against the owners of property. I felt it my duty to oppose that downward course. I have also always opposed payment of members, as it brings many needy men into Parliament, who depend chiefly upon it for a livelihood, and who are not, therefore, so independent as could be wished. But these enactments are questions of policy, and, however objectionable, are not a disgrace to our legislation, as the "*Land Tax Act*" is.

I built here with the view of a permanent residence, but bad legislation has destroyed my confidence; has militated against my desire to see my descendants settled here; in short, it has much estranged me from this fine colony. I feel doubtful whether to return to this great South Land, or to spend the remainder of my short days in my native land; but, wherever I go, I shall look back with affection to the birth-place of my children, with gratitude for prosperity, and with fond remembrances and best wishes to the many kind friends I leave behind.

Your very grateful and most obedient Servant,

W. CAMPBELL.

MELBOURNE,

14th April, 1882.

#### APPENDIX No. 1.

##### *Mr. W. CAMPBELL's Speech in reply to Address, 26th June, 1877.*

The Hon. W. CAMPBELL.—No other honorable member on this side of the House appearing desirous of addressing himself to the present subject, I will venture to offer a few remarks. As far as I can gather from the very moderate speech—which I very much concur in—of Mr. Cuthbert, the question mainly pressed upon our consideration is the proposed land tax. Now, judging from the remarks on the subject made during the general election, we may fairly conclude that the coming measure will contain exemptions from its operation of not only a highly objectionable but a wholly unprecedented character. I am not aware that in England, France, or even the United States of America, democratic as that country is generally considered to be, any portion of the community is exempted from taxation, no matter how small the burthen may be. To my mind the great principle should be that taxation and

representation should go hand in hand—that under no circumstance should there be either taxation without representation, or representation without liability to taxation. This House is generally supposed to represent property, and many honorable members here are undoubtedly the holders of considerable property; but I believe there is not a single one of us who would object to any fair and equitable taxation, so long as it was all round. It is my conviction that any taxation which will discriminate between property-holders and divide them into classes will lead to interminable difficulties. There will be no knowing where the limit would be fixed. For instance, one Government might propose to exempt all holders of property bringing in under £80 a year, while another would reduce that minimum to 80s. There would be no end to the changes. I consider that taxation ought to be made to apply to every class of property, especially land, because that is most easily taxed. I am sure that a fair and equitable land tax would meet with no objection whatever in this Chamber. I would be very glad to see such a thing. Should the necessities of the State call for such an imposition, I don't think any difficulty would be placed in its way here. But the tax now in view is of a different character. Then we are told that the "*Land Tax Bill*" will be in accordance with the policy approved of by the country. What are we to gather from that? We know that a majority of the members of the Assembly go in for a land tax with large exemptions; but has that policy been approved of by the country? I deny that the country has expressed any special opinion on the point. The electors had all sorts of matters put before them to decide upon. There was free trade, protection to native industry—those were very prominent points—the education question, and many others. Consequently, I don't think the Government have any right whatever to single out this one point of land taxation from the rest, and say that the policy of the country is specially the imposition of a land tax. I deny that that is a fact. I cannot discover that the country has expressed any decisive or definite opinion whatever on the subject. Therefore we are in the dark as to what the propositions of the Government on this point will be, except so far as their election and other speeches enable us to judge what they have in their minds. That what they intend to propose is also the policy approved by the country does not follow in the least. However, it will be time enough to deal with the thing when we have it before us. I observe that the address in reply contains no allusion to it, probably because the measure in question will not be one we can in any way alter.

**Mr. ANDERSON.**—The allusion to it in the Governor's speech is not addressed to the Council at all.

**Mr. CAMPBELL.**—What I wish to say is, that I would not have alluded to the matter but for the remarks made by Mr. Cuthbert, in moving the adoption of the address in reply. I may here refer to the fact that it is often asserted that honorable members in this Chamber are particularly reluctant to tax themselves. The old remark so often quoted—"Do you think we are going to tax ourselves," was, I remember well, made by a friend of mine in the old Legislative Council,

when a Bill came up for increasing the assessment on stock. The words were unwittingly let fall in a sense far removed from that now attributed to them. What, indeed, are the facts of the case? At that time I was myself a stockowner, and the representative of one of the three pastoral electoral districts of the colony; and, if any one will take the trouble of looking up the proceedings of our first session, he will find that it was on a motion of mine that the assessment of stock was increased. I moved the amendment upon which the amount of that assessment was made larger. I set that action—namely, the increase by the stockowners themselves of the taxation they had to pay—against the incautious remark of one individual, who spoke almost unmeaningly, and certainly without the intention now attributed to him. What is that observation worth against the actual circumstance that, at the time I allude to, the stockowners did tax themselves? I think honorable members around me are also quite willing to tax themselves. At the same time, we want that taxation to be equal and just, and not penal; whereas the land tax shadowed forth in the Ministerial speeches and in the Ministerial newspapers will be necessarily penal and unjust. Why should landowners as a class be singled out for punishment? I hold land in Victoria myself, every acre of which was put up to auction. The survey authorities of the colony, at very considerable expense, divided that land into small allotments of from 20 to 160 acres—I don't believe any allotment exceeded 160 acres—and they were put up to auction without so much as a bid being made for one of them. Yet I hear people asserting broadly that at that time the poor man could not get land through the competition in the auction-room of wealthier persons. There is the fact that the lands I speak of were not bid for, and lay for weeks open to the first person who chose to give £1 per acre for them. Now, however, the men who bought land in this way, or who bought it at auction in the face of public competition, the Government directly encouraging buyers of every kind to come forward, are told that they thereby did a wrong and a wicked thing. They are told that they committed a crime, and must now be punished for it—that they must be induced or, rather, coerced by certain means to part with their land at a disadvantage. I believe that is the object in view. It is called "reducing the size of the great properties." The common expression employed is that the estates of the country must be "burst up." Whether it is convenient or not, we are to be compelled to sell our properties. I ask is that a fair and equitable view of the question? So far as I am aware, I know of no precedent whatever in any country for such legislation. If the Parliament of Victoria passes such a law it will demean itself in the eyes of the whole civilized world. The country will be rendered unfit to live in, so far as protection to life and property are concerned, because, if you take away security with respect to the latter, I don't think that of the former can be very good.

## APPENDIX No. 2.

ON THE SECOND READING—*27th September, 1877.*

The Hon. W. CAMPBELL—I differ from the concluding sentiment expressed by the last speaker. I don't think that the country has committed itself to approval of this tax. There were other questions placed prominently before the country at the last general election besides that of a land tax, one of which was the question of free-trade or protection. Another important matter which had something to do with the results of the election is the grievances under which the Roman Catholics are suffering. I believe that the influence which the members of that body brought to bear had more to do with the results of the election than the land tax or any other question submitted to the country. It is therefore unfair and untrue to say that the members of the Assembly were returned solely to support this land tax. I deny that they were.

Mr. BALFOUR.—I did not say that the members of the Assembly were returned solely to support this land tax, but that it was one of the questions put prominently before the country at the last election, and that the country returned a majority in favour of it.

Mr. CAMPBELL.—The burthen of the song of those honorable members who have spoken in favour of this tax has been that the tax is in accordance with the voice of the country, but I submit there is no evidence that such is the fact. Honorable members generally have condemned this tax—have condemned the inequalities of it—and yet some of them are going to vote for it, and so commit a gross injustice. Some honorable members say that it is similar to the income tax in England, but I deny that there is any analogy whatever between the two things. The tax proposed by this Bill will act altogether inequitably, for a man may have a very large income but only a small quantity of land, and he will escape the tax altogether; but another man may have a large quantity of land, yet have it burthened so heavily that he is comparatively a poor man, and he will be taxed while the rich man escapes. It is absurd to compare this tax with the income tax in England. Mr. Balfour says that he condemns a penal or progressive tax; but this tax is penal in every sense of the word, and it is also a progressive tax. With regard to the exemption, I may remark that in some of the rich districts of the colony there is land worth £40 or £50 an acre, and why should 640 acres of such land be exempt from taxation? Again, a man may own several 640-acre allotments of good land, and yet he will escape taxation under this Bill if the allotments are five miles apart from each other. Such a man may possess £20,000 or £30,000 worth of land, and yet he will not pay one farthing of taxation. I consider that this is one of the great blots on the Bill. We have been told by Mr. Sargood that if we do not pass this Bill we may have another presented to us, the skeleton of which has been mentioned to the country; but, if we do pass this measure, there is nothing to

prevent the other to which the honorable member refers being sent up to us next session. I think, indeed, that it will be more likely that the skeleton Bill will be sent up to us if we pass the present one than if we do not; and that the more concessions we make to unjust propositions, the more will we be likely to have worse legislation thrust upon us in the future. With respect to the power of the commissioners to commit men to prison, the Postmaster-General said that if they commit any man improperly he will have good grounds for an action against them; but no pecuniary recompense could compensate him for the indignity which he would have been subjected to. I think this power of imprisonment is a monstrous power to give the commissioners. That alone is a sufficient reason why the House should adopt the amendment. There are also other good and valid reasons why it should do so. This House, I submit, has the power of laying aside any Bill, and if in any case there are good and sufficient reasons for taking that course, I think we are justified in adopting it. I will read an extract from *May* on this point:—

“The constitutional power of the Commons to grant supplies without any interference on the part of the Lords has occasionally been abused by tacking to Bills of Supply enactments which, in another Bill, would have been rejected by the Lords, but which being contained in a Bill that their Lordships had no right to amend, must either have been suffered to pass unnoticed, or have caused the rejection of a measure highly necessary for the public service. Such a proceeding invades the privileges of the Lords no less than the interference of their lordships in matters of Supply infringes the privileges of the Commons, and has been resisted by protest, by conference, and the rejection of the Bills.”

If the Bill be laid aside it will not necessarily be shelved altogether, as some honorable members suppose. It will be quite competent for the two Houses to hold a conference about it. The Assembly can search the records of the Council, ask for a conference with this House, and then after the conference a fresh Bill can be introduced, curing the defects which even some of the supporters of the present measure are desirous of seeing amended. Mr. Balfour made a suggestion about a conference; and I would like to ask the Postmaster-General whether, in the event of the amendment being withdrawn, and the Bill read a second time, the Government will agree to a conference?

Mr. CUTHBERT.—I think I may answer that question by asking another. Are honorable members who support the amendment prepared to pass the second reading of the Bill?

Mr. CAMPBELL.—I cannot presume to answer that question. The honorable member had better ask Sir Charles Sladen.

Mr. CUTHBERT.—Am I to understand that there is a proposal on the part of honorable members to withdraw the amendment, pass the second reading of the Bill, and then ask the Legislative Assembly for a conference in reference to the measure?

Mr. CAMPBELL.—Will the honorable member accept such a proposal if it be made? The suggestion for a conference was thrown out by Mr. Balfour, and I think it might be a good solution of the matter to adopt that suggestion.

Mr. CUTHBERT.—I really do not see what good is likely to flow from a conference. If I thought that any good would result from one,

I would be glad for it to take place, but I do not think the slightest good would result. The probabilities are that the members of the committee appointed to represent this House would be chosen for the views the Council entertains in reference to the Bill; they would meet a similar number of members of the Assembly, who would no doubt be chosen for the views that House holds in regard to the measure, and angry recriminations might take place. ("No.") Honorable members may say "No," but I am stating the reasons why I think a conference at this stage is not desirable. It is a most unusual thing in connection with a Bill of this nature—a Bill for the imposition of a tax—which we have only the right to accept or reject, and in which we are unable to make any amendments, to ask for a conference. I think we had better address ourselves to the question of whether the Bill is to be read a second time or not. I have not consulted my colleagues on the question of a conference, and I am not in a position to bind them in any way; but, speaking my own views, I do not think any good would flow from a conference.

**Mr. CAMPBELL.**—The proposition did not emanate from this (the left) side of the House. It proceeded from a supporter of the Bill, and I inferred from that that he might have some sort of authority to speak for his party.

**Mr. CUTHBERT.**—No.

**Mr. BALFOUR.**—There is no party.

**Mr. CAMPBELL.**—I was under that impression; otherwise I would not presume to make such a suggestion. However, nearly all the supporters of the Bill acknowledge its defects. They admit that it is a bad and unjust Bill in many respects. For myself, as a property-owner, I would be glad to see a land tax, but I would like to see it applied all round, with no exceptions. We would thus follow the example of the mother country. And here I wish to point out that the cry that property-owners object to tax themselves is untrue. I think Mr. a'Beckett was a member of the old Legislative Council at the time that an increased assessment of stock was resolved upon, and it may be in the recollection of the honorable member that I proposed that increase. With this fact in existence I assert that it is unjust to say that owners of property object to tax themselves. I believe there is not an owner of property in this House who would object to a fair and equitable tax, a tax which would apply all round. But the proposition now before us is an unprecedented one. I am not aware that such a tax is in force in any civilized country. Mr. Wilson has called attention to the taxation which the banks have been subjected to, and contended that this House committed an injustice to those institutions when it sanctioned that taxation. Assuming that the House made a mistake in that regard, I would remind the honorable member that two blacks don't make a white; but I am not aware that in imposing taxation on the banks, the large establishments were taxed heavier than the small. I think the tax applied to all banking institutions equally; so there is no analogy, as the honorable member appears to suppose, between that case and the present. The chief objection which I have to the taxation now

proposed is that it singles out a class ; it divides property-owners into classes, and sets class against class. And in imposing taxation there is one thing we ought carefully to look to, and that is our reputation in the old world. I find that already our 4 per cent. debentures are some 2 or 2½ per cent. below par, while the 4 per cents. of the neighbouring colony of New South Wales are quoted at 4 per cent. higher than ours. I also find that in the July number of the *Quarterly Review* the propositions of the present Government are stigmatised as revolutionary. And what, I ask, is likely to be said—what are our securities likely to sell at—if such an offence against good government as I deem the passing of this Bill will be committed? I fancy that our reputation not only in the mother country but throughout the world is likely to suffer by such a proceeding. With regard to the reasons given by Sir Charles Sladen for laying the Bill aside, I think they are quite sufficient. There can be no question that this House has the power to set aside any Bill. No doubt, the House ought to be able to assign good reasons for such a course, and I maintain that the reasons submitted in this instance are good and sufficient. I sincerely trust the House will be saved from what I cannot help regarding as the terrible disgrace of passing the measure. I concur with Sir Charles Sladen, that this House will lower itself in the estimation of the colony if it does pass the Bill, and I would regret that exceedingly, because I think the House, at present, stands well with the country. I trust that honorable members will not be frightened, as it were, from doing their duty. Some honorable members seem to think it expedient to assent to the measure because the country goes with it. But I deny that the country goes with it. Why, Mr. Bromell has already shown that a large section of the small proprietors who will be exempt from taxation are opposed to the Bill. I hope honorable members will not be influenced by dread of anything which may happen outside as to their vote on this question. If they have anything to dread, it is the dread of committing the mistake of passing such an iniquitous Bill.

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#### APPENDIX No. 3.

##### PERSONAL EXPLANATION—15th June, 1880.

The Hon. W. CAMPBELL said he desired to make a personal explanation with respect to a statement, published in the *Argus* of Friday, June 11, to the effect that he had been accused of committing a fraudulent act. He was sure no honorable member would be thought to be behaving properly if he remained silent when such an imputation was brought against him. Undoubtedly the House generally was interested in the character and reputation of its members. The charge he alluded to was set forth in a paragraph relating to a

discussion that occurred in another place with reference to the Land Tax Act, and it was as follows :—

“Mr. Laurens went on to state that one honorable member of the Upper House, the Hon. W. Campbell, who originally paid £460 per annum, had so arranged that his name had disappeared from the list.—

That was perfectly true.

“Mr. Longmore, who followed, said that what had been done by the gentleman in question and others was to divide their estates among their families ; and such transfers, he declared, were fraudulent.”

Now, he (Mr. Campbell) was under the impression that one of the arguments put forward in favor of the land tax by a certain, and by no means small, class of the community was that it would have a tendency to subdivide properties—in other words, to burst up the large estates. It ought to be remembered that the honorable member of another place who used the word “fraudulent” was the Minister of Lands of the Government that carried the “*Land Tax Act*.” Now, however, it appeared that the advocates of the tax were by no means delighted to find some of the large estates burst up, for certainly he (Mr. Campbell) had burst up his estate with a vengeance. In the first place, he would mention that the estate referred to as having been held by him consisted mainly of about 21,000 acres in the parishes of Salisbury and Yarrayne. The land was originally put up to auction by the Crown, with the result that nearly all of it was passed in, there being no buyer. The fact that at that time no one would pay £1 per acre for it was surely a pretty good indication of the poor quality of the soil. Being thus unsold, it remained, as a matter of course, for some weeks open to be purchased by any one who tendered £1 per acre for it, and the greater portion of it was then taken up, as an investment, by Mr. Donald Larnach, now of London, Mr. Ochiltree, of Ballarat, and the Messrs. Lewers, all gentlemen concerned in banking. From them, and also from Messrs. Kaye and Butchart, he purchased the property, to which he added a small area he bought direct from the Crown. The price of the whole, before the land was subdivided or fenced, amounted to about 25s. per acre, but, inasmuch as for a long time afterwards, he let it to his son, with all improvements, at a rental of only 2s. per acre, it would be seen that his bargain was not a very good one. Things went on in that way until what he could not help calling the iniquitous land tax was adopted. He owned that his feeling against that impost was so strong that it seemed to him a degradation to pay it. He regarded it as a species of black-mail—as legalized robbery. Under these circumstances, he considered he was entitled to maintain his rights ; consequently he divided his land into blocks, each less in extent than the minimum area subject to taxation, and then made an absolute gift of them to different members of his family. They had all reached years of discretion, and had been in receipt of allowances from him far in excess of the value of the estate, and he had felt that he only held it for their benefit. The subdivision was effected in a perfectly *bona fide* way, for he had divested himself wholly of all right or title to the property. Since the term “fraudulent” had been applied

to the transaction, it might perhaps be supposed by some that the transfer was made with a sort of secret reservation which would enable him, whenever he chose, to reverse it; but such was not at all the case. He had never had any idea of the kind. He would add that he regretted that the accusation against him was not made under circumstances which would render the accuser answerable to him for libel. Friends had told him that he might well treat the whole charge with contempt, and pass it by, but that was not his view of the matter. He felt that, while he might rest satisfied that those who knew him would never believe him guilty of anything resembling fraud, there were some who did not know him, and to whom his personal character was comparatively strange. On the other hand, the same thing might be said of Mr. Longmore. There were many in the colony who did not know him, and might on that account place greater reliance upon his words than those better acquainted with him would do. Therefore, he thought that, upon the whole, he ought to offer the present explanation. As for the land tax itself, he regarded its imposition as a misfortune to the colony. He believed it to be one of the main causes of the existing depression and stagnation in trade and business affairs generally, and also of the disemployment of the hundreds of hard-working honest men now daily going about looking for work, and finding none. Its effect had been not only to discourage investment in land, so as to render it almost unsaleable, but also to prevent those who held it from improving it. Where, indeed, was there any inducement to landowners to increase the value of their property by fencing, draining, building, or clearing? For example, he knew a gentleman in his own neighbourhood, at Bridgewater, whose land was originally forest, and scarcely worth £1 per acre, but he cleared it, put in grasses, and so improved it that its value was greatly enhanced. But what was his reward for his enterprise? He had simply brought taxation upon his shoulders, for his land was classified higher than that of his neighbours, who had never touched their holdings to improve them. If the present Government had within them a spark of real patriotism, they would amend the "*Land Tax Act.*" He did not mean to imply by his remarks that he objected to a tax on land. On the contrary, he wanted to see every acre in the colony subjected to a fair and equitable share of the burthens of the State. It was only by pursuing some such course as that, that public confidence could be restored throughout the country. While the present land tax remained, he, for one, did not care to invest in land, nor, if he had money to lend, would he lend it upon security of that character. Besides, it ought never to be forgotten that the persons directly touched by the land tax were principally pioneers of the colony, who had made their mark in it, and much assisted its progress. Let people prate of the Reform Bill, and the good of passing it, as they chose; nothing but the amendment of the "*Land Tax Act*" would remove from the statute-book of the colony the greatest blot that now disfigured it.

*From "The Argus," 17th June, 1880.*

In the Assembly last week, Mr. Laurens stated that the Hon. W. Campbell, who originally paid land tax to the extent of £460 per annum, had so arranged that

his name had disappeared from the list. On this Mr. Longmore remarked, with his usual affability, that the gentleman in question had divided his estate amongst his family, and that such transfers were fraudulent. Mr. Campbell, thinking that "many that did not know Mr. Longmore might place greater reliance on his words than his intimate friends would," considered it due to himself to take notice of the offensive observation. He explained how he had acquired the estate which was assessed at the sum mentioned, and showed that it was a poor investment. He then proceeded thus:—

"Things went on until the passing of what he called this iniquitous land tax. He felt it a degradation to pay that tax. He looked upon it as a species of black mail—legalized robbery. He felt that he was morally entitled—as he was legally entitled—to do what he pleased with his property. He subdivided the land into blocks, less in extent than the area subject to the tax, so that they were all exempted. He made an absolute gift of the land to his family."

The hon. gentleman then went on to complain of a *bond side* transaction being described as fraudulent, and expressed regret that the words had not been used in a place where the person who uttered them could be held responsible for his language. We regard Mr. Campbell's explanation as quite satisfactory. He had a perfect right to relieve himself, if he could legally do so, from an impost which, as a tax upon a section of society, is an infamous product of class legislation. The whole affair is notable on two grounds. In the first place it shows that Mr. Longmore can never contemplate the proceedings of his fellow-men without suspecting fraud. Some may say that this is only natural in the case of a man whose political career has always been a fraudulent pretence. Perhaps they are right. The other point to which we draw attention is, that it is evidently impossible for the large landowners to please the "Liberal" party, no matter what they may do. "Strike high or strike low," it is all one. The principal object of the land tax, whatever its effect may have been, was to "burst up" the large estates. It appears now, however, that if a holder gives effect to this policy, he only transforms himself from a bloated monopolist into a fraudulent evader. Is it not about time for the House to surrender one or two of its privileged and habitual libellers to the operation of the law?

#### APPENDIX No. 4.

##### LAND TAX ACT AMENDMENT BILL—24th June, 1881.

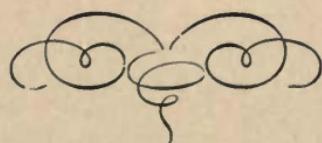
The debate on the Hon. R. D. Reid's motion for the second reading of the Land Tax Act Amendment Bill (adjourned from June 7) was resumed.

The Hon. W. CAMPBELL said:—Mr. President, the question before us has been so well discussed already that I fancy I cannot throw much light upon it. But I think that, on the present occasion, it is the duty of every honorable member to express his opinion on the subject, if only in order to bear testimony to the impolicy of the existing Land Tax Act. As to offering arguments why the Bill should not become law, I don't see that there is much need for anything of the kind. I fancy that how the measure will be dealt with by us is by this time pretty well understood, and that the honorable member representing the Government will not break his heart over the busi-

ness. Dr. Hearn has, with his usual great ability in connection with all constitutional matters, put it to us very forcibly that the Bill is clearly a measure of policy, and therefore one this House has a perfect right to deal with ; but I am prepared to say that, were it one of money only, I would vote against it, because it is every bit as unfair and unjust as the "*Land Tax Act*," and I do not hesitate to hold that in extreme cases the Council has a right to throw out a Money Bill. However, Dr. Hearn has proved beyond doubt that what we have before us is a question of policy, and therefore no point about it being a purely financial measure can arise. It is said that when the existing law relating to land taxation was carried here, we were, so to say, under duress, because public opinion on the subject was so strongly excited that there seemed to be a prospect of something dreadful—perhaps rebellion—happening if the Bill did not pass. But I deny that there ever was such a feeling in the country. For instance, I have no recollection of a single public meeting being held on the subject. I know there was at the time a general opinion that land had escaped taxation much too long, and that I, in common with, I imagine, every honorable member here, was perfectly willing that land should be taxed. Indeed, I believe the community were unanimous on the point. But that there was any general or strong sentiment in favour of the land tax we helped to impose on the country, I, for one, entirely deny. I have a better opinion of the intelligence of my fellow-citizens, whom I regard as inferior to no section of the human race, than to suppose that they ever really expected such a measure to become law. As for any fears of rebellion—of an attempt at revolution—I thought them then, as now, entirely groundless. History shows that events of that sort don't occur without pretty good cause for them ; but what sort of cause of the kind can be said to exist here ? Surely, no one will say that the landlords of the country are guilty of any crime. Yet what has been the operation of the "*Land Tax Act*" with respect to them ? It has been tantamount to the confiscation of one-fourth of the properties affected by it. Most of the landholders of the colony acquired their properties in a perfectly legitimate way. My own case is simply an example of many others. The land I bought was originally put up for sale by auction without a bid, and afterwards purchased at the upset price by capitalists, from whose hands I took it. The Government of the day were only too glad to find purchasers for the property. I have heard it said that in the old days a poor man could not buy land, because he was always run out of the auction-room by some Leviathan squatter ; but to my knowledge that statement is as a rule quite incorrect. It is notorious that during the land-auctions period very large areas were often put up for sale to the public without an offer, except from small men, who bought twenty or fifty acres at a time. Then, if the landlords of Victoria have committed no crime, why are they punished ? Of course, we have heard of the land in the old country being confiscated ; but how and why was the thing done ? After the rebellion of 1745, many of the estates that belonged to men who had joined in that affair were taken from them, but that was because they were guilty of

treason; and, after all, in almost every case the properties were eventually restored either to them or to their families. But why was the property of the landholders of Victoria confiscated? Practically because they had been successful in life—because they availed themselves of the resources of the colony, and thereby accomplished more for its development than any other class of the community. Yet men of that stamp are held up to public scorn and degradation by demagogues who have no interest whatever in the country. For my part, I look upon the "*Land Tax Act*" as a disgrace, but not as an eternal one, because I do not despair of seeing sentiments of fairness and justice prevail, and a tax equitably affecting every class in the country possessing property, no matter of what kind, passed into law. Such an impost would, owing to its operation being widely distributed, be really very little felt. In fact, the amount the small property-owners would have to pay under it would be truly insignificant. I have no doubt we would soon see a state of things of that sort if we had at the head of affairs real statesmen—men who would not stoop to pander to the follies of the hour—instead of men who seek a road to power by fomenting the passions of the multitude at public meetings, which are always avoided by the better classes of society, and are almost always led by some leather-lunged demagogue, who cares little what he says so long as he carries his hearers with him for the time being. Unless the "*Land Tax Act*" is amended, I see no chance of any real restoration of public confidence. It is said that now that we have reform, peace, and cheap money, we ought to progress; but is it not the fact that, in spite of everything, property does not increase in value? As Mr. McBain showed us a few nights since, although money is 40 per cent. cheaper than it was a year or so ago, property has lately gone down rather than risen in the market. Writers in the press have a good deal to do with the state of matters I complain of, because undoubtedly they lead public opinion, and it is owing to the course they took when the question of land taxation was last before us that we accepted the proposals on the subject then made. I am sure many honorable members here are much led by the press, and perhaps they ought to be so led to some extent; but I would have them look at the fact that the press often means men who have only a very temporary interest in the country, and perhaps do not see any further than other people. If we had here the system of land taxation they have in England where all property is taxed, it would be a great advantage to us. But what have we got instead? A land tax based on the principle of an income tax. Now, there is no analogy whatever between the taxation of incomes and the taxation of land. For example, because a man is the reputed owner of a large property it does not follow that he is correspondingly wealthy. His land may be heavily mortgaged, and, when he has paid interest upon its encumbrances, and land tax as well, he may be only a poor man—perhaps almost a beggar. What justice can there be in taxing him as though he was a rich man? On the other hand, under our existing system, a man may be in receipt of an enormous income—he may be a capitalist owning very little real estate—and yet escape taxation altogether. In some of the newly

settled portions of the United States they have a tax which is worth taking notice of. It applies to all sorts of property, land, houses, stock, mills, flocks, and herds—everything, in fact—and, inasmuch as it amounts to only half per cent. on the capital value, no one feels it. Yet it answers every purpose, and its operation is to give confidence to all classes, and to enable the community concerned to progress very rapidly indeed. What during the same time have we had in this colony under our iniquitous land tax? Nothing but retrogression. Our landowners have lost heart; they will not go on improving their property to half the extent they formerly did, and the consequence is that a great number of working men have been thrown out of employment here, and been driven into the neighbouring colonies. There is no doubt that our late loss of population is partly to be accounted for in that way. Thus indirectly the land tax has been a great blow to the working man as well as to the smaller landholders reached by it. As to the character of the tax in the light of the true principles of political economy, I need say nothing. That ground was well taken up, the other evening, by Mr. Robertson. I wish, however, he had brought forward the same quotations from the great authorities when the former "*Land Tax Bill*" was before us. Perhaps, had he done so, our action with respect to that measure would have been different, and we would not have consented to a tax which reaches only one person in a thousand—only 800 individuals in a population of 800,000. I dare say the land tax is consistent with what is called in these days a "liberal" policy; but, to my mind, such liberalism means people taking money out of the pockets of others instead of their own. I cannot help thinking that, had the honorable members of this Chamber who supported that tax had any foresight of the evils it would give rise to, they would never have agreed to it as they did. In conclusion, I will say that I am sure every honorable member here who intends to make Victoria his permanent home must be desirous to see the "*Land Tax Act*" amended, but he must also see that the effect of the amending Bill now before us would be to make things worse than ever.



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THE CROWN LANDS  
OF  
AUSTRALIA.



With kind regards from the Author  
THE

# CROWN LANDS

OF

## AUSTRALIA:

BEING AN EXPOSITION

OF

THE LAND REGULATIONS, AND OF THE CLAIMS AND GRIEVANCES  
OF THE CROWN TENANTS;

WITH

DOCUMENTARY EVIDENCE APPENDED;

TOGETHER WITH A FEW

HINTS UPON EMIGRATION & THE GOLD FIELDS.

BY

WILLIAM CAMPBELL,

LATE MEMBER OF THE LEGISLATIVE COUNCIL OF VICTORIA.

---

JOHN SMITH & SON, GLASGOW;  
WILLIAM BLACKWOOD & SONS, EDINBURGH AND LONDON.

1855.

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MELBOURNE, 22D MAY, 1854.

WILLIAM CAMPBELL, Esq. M.L.C.  
MELBOURNE.

DEAR SIR,—We, the undersigned Tenants of the Crown, cannot permit you to leave this colony without tendering to you the expression of our warm thanks for the ability, energy, and perseverance you have displayed in advocating the cause of the pastoral interests of the community.

Appreciating as we do the sincerity which has ever formed the groundwork of your action in this cause, and feeling that your interest in it can never be diminished, we venture to request that you will represent our grievances to the Home Government, and maintain the rights you have ever so consistently upheld.

Wishing you a safe and happy voyage to your native land, and the realisation of all your hopes in re-visiting it, we remain, Dear SIR,

Yours very faithfully,

D. Maclachlan.	William Snow Clifton, J.P.
F. Taylor.	John Goodman, M.L.C.
J. H. Kerr.	Wm. J. T. Clarke.
Fred. Fenton.	Alexr. Cameron.
J. West, tertius.	A. G. Brodribb.
William Paterson.	Wm. Degraves.
W. B. Hamilton.	Lewis Clarke.
J. Sutherland.	James Hurn.
Duncan Cameron.	James Webb.
J. M. Loughnan.	G. R. Maicke, M.D., F.R.S.
Thomas U. Rhyder.	W. Robertson.
A. M. Campbell, J.P.	John Brock.
Gideon S. Lang.	J. H. Ross.
Matthew Harvey, M.L.C.*	Robt. Ross, J.P.
Andrew Russell, M.L.C.	John Carfrae, J.P.
Alexr. Macallum.	

\* M.L.C.—Member of the Legislative Council.

MELBOURNE, 26TH MAY, 1854.

MY DEAR SIR,—In forwarding you the inclosed Address, I cannot refrain adding some personal expressions of gratitude for your exertions in a cause in which, with many others, I am deeply interested. Only aware of your projected departure within these last few days, I have not obtained many signatures, which, if time had permitted, would have been but too willingly joined to the list of those already appended. I will only mention, that every tenant of the Crown in Melbourne has availed himself of the opportunity to express his admiration of the consistent and honest career which you have pursued with so much ability and determination.—Believe me, yours faithfully,

D. M'LACHLAN.

W. CAMPBELL, Esq. M.L.C.

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The reluctance felt by the Writer, in publishing the foregoing Address and Letter, was overcome, with the view of showing that he was authorised to represent the grievances of the Crown Tenants of Victoria.

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## INTRODUCTION.

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THE great pastoral interest of Australia had its origin in the foresight and enterprise of the late Captain John Macarthur of Camden, who will be ever memorable in the history of his country. That great interest was the means of creating every other interest—not even excepting the great gold interest; and Captain Macarthur may therefore be justly held the father of a country soon destined to become, if under a wise and just government, a great and mighty empire. In 1803, Capt. Macarthur lodged a paper in Lord Hobart's office in London, in which it is stated, "Captain Macarthur is so convinced of the practicability of supplying this country with any quantity of fine wool it may require, that he is earnestly solicitous to prosecute this, as it appears to him, important object; and, on his return to New South Wales, to devote his whole attention to accelerate its complete attainment. All the risk attendant on the undertaking he will cheerfully bear—he will re-

quire no pecuniary aid—and all the encouragement he humbly solicits, is the protection of Government,—permission to occupy a sufficient track of unoccupied lands to feed his flocks.” The Government acceded to his wishes, and ultimately gave him a large grant of land; and it need scarcely be said that his prophetic convictions were realised: his flocks increased rapidly under his care and good management. Others followed his example: the lands were lying waste: the Government very wisely encouraged their occupation; and licensed any free and respectable person who desired to occupy them. Commissioners were appointed to manage these waste lands, and the occupants *voluntarily* paid an assessment to defray the Commissioners’ expenses, and that of the police under their direction, so that their occupation might not cost the Government anything. But in the course of time, when nearly all the available lands within a practicable distance were occupied, great evils were experienced from the arbitrary acts of these functionaries, who assumed great power in defining the extent of runs, by lessening one run in order to enlarge another. They were accused of receiving bribes, and of acting very unfairly between man and man. The occupants were powerless against the Government, as they had only an annual licence—they could not be otherwise than dissatisfied—they required a better tenure, to secure them against the irresponsible

acts of an arbitrary Governor and his needy subordinates—they agitated their grievances, and ultimately obtained an equitable title to a lease upon *definite terms*, with a preferable right to purchase at a fair value. They obtained that title through an Act of Parliament, and an Order of Her Majesty in Council. They were grateful for that boon granted to them, and were encouraged to improve their property, under the fullest confidence that the promise of the Queen, under the sanction of the Imperial Parliament, would be held sacred. In this, however, they have been much disappointed, as Her Majesty's representative in Victoria violated that promise, by refusing to give the occupant of Crown lands the stipulated pre-emptive right, and otherwise illegally disposed of such lands to their prejudice. The tenants of the Crown (for such is the proper designation of the Australian squatter) protested against such arbitrary infringements. The executive procrastinated for years, and were encouraged in their indecision by the clamours of the press. Ultimately the question was referred to the decision of the Home Government; and, after a waste of seventeen months' time, was left in as unsettled a state as ever by the indefinite despatch of the Duke of Newcastle, which is reviewed in the fourth chapter.

In the meanwhile a great gold-producing interest sprung into existence, and now seemingly excuses the executive from the fulfilment of pro-

mises and contracts entered into by the Crown and its tenants; but which promises and contracts ought to have been fulfilled years before any produce of gold existed in Victoria: indeed, both the Crown and the tenant implemented the leases, as is proved in the first chapter. The Crown tenants are therefore entitled to be placed in as good a position as that in which they would have been, were it not for the procrastination of the executive. It is impracticable to restore the lands which have been illegally sold; but it is absolutely necessary, for the ends of justice, that equivalent compensation be made to the injured pioneers of Australian civilisation; and if the executive, through an apparent pressure of expediency, are to continue such violations of the rights of property, they are bound, by the pledged honour of the Crown, and by every principle of honour and of justice, to make provision from the Crown lands to indemnify the arbitrary abrogation of such rights.

An erroneous impression prevails regarding the privileges of the tenants of the Crown, which requires prominent correction. It was published by Mr. Robert Lowe in 1837, that the Crown tenants had a monopoly of buying the lands at 20s. per acre; whereas the truth is, that they have only a right to buy the land at a *fair valuation*, which the Governor may fix at the highest obtainable price, but which can never be lower than £1 per acre.

The Act 5 and 6 Victoria is embodied in the

Appendix (No. 1), merely to complete the code of land regulations: it was amended by the Act 9 and 10 Victoria, App. 3, and is applicable only to the Settled districts. The reader will therefore observe that the legal claims of the Crown tenants are chiefly founded upon Nos. 3 and 4 of the Appendix.

The appropriation clause in the Assessment Act (App. No. 2), which was in force when the leases were demandable, shows that the Crown tenant is liable only to be assessed for local purposes: and that the attempt made by the Executive in the Legislative Council last session to increase the rent, by an exorbitant rate of assessment, in order to meet a deficiency in the general revenue, was illegal and unjust; and the exclusion of the appropriation clause in the new Act was an indirect invasion of the rights of the Crown tenants: so much so, that they are, in the absence of such security of the proper appropriation of their assessment, legally justified in refusing payment of it, as the Act is thereby not in accordance with the Order in Council, nor with the former Act. Such illegal invasions upon the rights of the Crown tenants, having no limit affixed, indicate what they might have to expect from the Legislature hereafter, if it was legally empowered to decide upon their claims, which the Home Government is in honour and in justice bound to settle, before the Crown lands are handed over to the Local Legislature, in which the

representation of the pastoral interest is swamped by the formation of superfluous townships in the pastoral districts. The Colonial Secretary, by such invasions, evidently forgot his interpretation of 1851.—See page 47.

The First Part of the Appendix is composed of legal documents, which form a complete code of the law of the sale of Crown lands, and which are reviewed in the first chapter.

The Second Part contains the opinions of the Crown law officers, which, though not forming any part of the law, go far to explain and strengthen that law: they are reviewed in the second chapter.

The Third Part contains the votes and proceedings of the Legislative Council bearing on the question; but they can only be received as expressions of opinion on the part of that body, which were not empowered to interfere with the management of the Crown lands. It also contains opinions of distinguished barristers; protests and memorials from the Crown tenants, in defence of their rights; correspondence between the Lieutenant-Governor and the Secretary of State for the Colonies; together with a report from the Melbourne Chamber of Commerce, condemnatory of the encroachments of the Government, and suggesting a scheme of compensation.

The Fourth Part consists of statistical returns.

The long complicated despatch of the late Lieutenant-Governor was enough to mystify the subject

to one of more leisure than the Duke of Newcastle, who in his reply was evidently misled by that despatch, and so misapprehended the rights of the Crown tenants; otherwise his Grace could not have left such an important question in such an undecided state, to the injury of the peace and prosperity of the Colony at large. The length of that despatch precludes it from a place in the Appendix.

Lest the strictures which are necessarily made upon the official acts of the late Lieutenant Governor may appear personal, I take this opportunity of expressing the greatest respect for the private character of that gentleman; but the representation of the grievances of an injured class of fellow-colonists being confided to me, I should fail much in my duty were I to allow any respect for private worth to shield the author of these grievances from public exposure.

I have briefly touched upon the effects of the gold discovery in Victoria, which, although only disclosed to the government in the month of July, 1851, was actually discovered a year and a half before then.

I have also briefly touched upon Emigration, which may be benefited by a modification of the land regulations, in order to dispel erroneous impressions prevailing regarding them.

I have prefixed an Address from the Crown tenants of Victoria, with a letter from Captain D. M'Lachlan, late of the Rifle Brigade, explaining

how the address was not more numerously signed: this I do in order to show that I am authorised to represent the grievances of that body. And feeling honoured as a representative of such a respectable body, and in grateful appreciation of their mark of confidence, I have voluntarily undertaken, in the absence of a professional man, the compilation and publication of documentary evidence in proof of their rights; and only regret the imperfection of the exposition which I have thus ventured to demonstrate.

W. CAMPBELL.

CARRAITH, November, 1854.

## CHAPTER I.

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### LEGAL DOCUMENTS REVIEWED.

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Order in Council—Sufficient Land open for Sale—Tenders for Runs—Transfer of Leases guaranteed—Investment of Capital—Expense of Survey and Settlement of Boundaries—Lord Grey's Dispatches—Reserves not required—Crown Law Officer's opinions—Population all employed in Pastoral pursuits—Increase and decrease of Wool—Legal claims—Governor's power limited—Responsibility of British Government—Representation of Pastoral Interest destroyed—Scheme of Compensation.

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ON the 9th March 1847, an Order in Council, under the authority of an Act of Parliament, entitled the occupants of crown lands beyond the settled districts in New South Wales, to "demand" leases, for 8 and 14 years, in their respective districts, with a preferable right to purchase during the continuance, and upon the expiration of the leases.—App. 3 and 4.

On the 7th October 1847, Her Majesty's representative, the Governor of New South Wales, promulgated the Order in Council, and required the demands for leases to contain a clear description of the boundaries—supposed extent—estimated capabilities of the runs, &c.; and to be made within six months of that date, under pain of forfeiture.—App. No. 6.

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The Order in Council reserved a power to extend the intermediate districts up to the 1st January 1849. The colony was accordingly divided into three districts—Settled, Intermediate, and Unsettled. The lands in the settled were left, as formerly, open for sale by auction.

The lands in the unsettled districts to be held under lease for fourteen years, and during that term, “not open to purchase by any other person, except the lessee.” (App. No. 4, Sect. 6.) The lowest price to be £1 per acre; if the land was of greater value, the Governor to exercise his power of having them valued. (App. No. 4, Sect. 3.) On the expiration of the lease, the lands to be open for sale, subject to the lessee’s preferable option of purchase at a valuation—in the event of the lessee declining to purchase, the value of his improvements to be allowed to him out of the price of the land.—App. 4, Sect. 16.

If more than three-fourths of the run remained unsold, the lease renewable for the remaining portion.

The rent to be fixed at £2 : 10s. per 1000 sheep, exclusive of the assessment for Commissioners and Police expenses.—App. 4, Sects. 2 and 4; see also App. 2, Clauses I. and XI.

As an encouragement to effect improvements, the rent under the renewed lease not to be raised more than 50 per cent.—App. 4, Sect. 18.

Under the 8th section of the Order in Council, (App. 4,) the Governor is empowered to reserve from sale lands for *such public purposes as are* described in the 3d clause of 5 and 6 Vict. App. No. 1.

The 9th section of the Order in Council enables the Governor to make grants or sales for *public purposes*.—App. 4.

The formation of a railroad in the unsettled district to bring all the lands within two miles of it, under the rules of the intermediate district.—App. 4, Sect. 10.

The conditions of a lease in the intermediate district are the same as those for a lease in the unsettled district, except that the term is only for 8 in place of 14 years; and that, at the end of every year, the Governor, on giving 60 days' notice, can offer all or any of the lands for sale, subject to the lessee's option of purchase at a fair value. (App. No. 4. Cap. III.) A lease, therefore, in the intermediate district, though nominally for eight years, is in reality only a lease for one year.

As the intermediate district in Victoria includes nearly all the lands adapted for agricultural purposes beyond the settled district, it is competent for the Governor, at the end of every year, to throw any extent of land in that extensive district into the market for sale, and so require the lessee, within 60 days, to exercise his option. Had the late Lieutenant Governor legally exercised his power in that way, which was afterwards pointed out to him by the Legislative Council on the 28th July 1852 (App. 46), in place of destroying the rights of property, and violating the law, which he did, by refusing the lessee the option to purchase lands which he sold to other parties for private purposes, all the odium attached to his government on that head, and the groundless clamours of a mercenary press, would have been avoided.

By a Proclamation of the 1st January, 1848, (App. 7, 8, and 9,) regulations were established for the acceptance of Tenders for forfeited and for *new* runs. Under such regulations, 61 tenders were accepted by the Government between the 1st January, 1848, and the 1st July, 1852. (App. 62.) The substance of the agreement entered into

between the Governor and the Tenderer was the payment of a premium generally, in addition to the fixed rent, by the tenderer, for and in consideration of a lease; surely the acceptance of the tender, the receipt of the premium, with possession, under a promise to grant, forms a complete equitable title.

On the same date, 1st Jan. 1848, another proclamation was issued, establishing rules respecting the transfer of runs, (App. 10,) by which any licensed occupant was empowered to dispose of his interest in his lease, the right of which to be "*thenceforth held to be vested* in the person in whose favour he requested that it should issue." The effect of the Government so guaranteeing the leases to purchasers of runs, made them as marketable as any other commodity in the Colony, so that, before the 1st July, 1852, no less than 514 runs changed hands. (App. 62.) The fixed tenure of a lease, with the option to purchase the land, gave a greatly increased value to runs, and they changed hands readily at enormous prices. Good healthy runs, with stock upon them, generally realised double the value of the stock; that is, when a flock of 10,000 sheep were worth only £5000, the same flock, *with a good run*, was worth £10,000.

Let the reader only fancy himself in the position of one of the 514 purchasers of runs, and, under a thorough confidence in the honesty of the Government, to have paid, perhaps, all that he was worth in the world for one of those runs, and, in the course of a few months afterwards, to find his *just* and *lawful* rights denied to him, by the very Government who had induced him to invest his all in the purchase of these rights; in such a position, what could his feelings be?

On the 8th August, 1848, a Proclamation was issued,

extending the limited time of applications for leases, from the 6th April to the 30th September, 1848.—App. 15.

On the 7th June, 1848, an Act was passed by the Colonial Legislature, to appoint Commissioners to examine and report upon disputed boundaries of runs. By that Act, claimants for leases were required to submit their disputes to the Commissioners, and to pay high fees before their case could be heard.—App. 5.

Many were put to great expense, trouble, and annoyance, in getting a survey of their runs made, and procuring witnesses to prove their claims. The Governor, by the *receipt of the Fees*, and by his decision in describing the boundaries of the lands to be leased, implemented the promise to grant a lease, otherwise the lessee's money and trouble would have been thrown away.

Lord Grey, then Secretary for the Colonies, by his dispatches of the 29th November 1846, and 30th March 1847—the latter transmitting the “Order in Council,”—gave very *pointed* instructions to the Governor to be careful in classing the lands of the Colony, on dividing it into districts, as, to use his own words, “lands to be defined as *unsettled*, would be *put out of the power of the Crown, and rendered unavailable to the public for purchase for the long period of fourteen years.*” The interpretation of the Secretary of State, written a few days after the date of the “Order in Council,” and transmitting it with minute instructions to the Governor, must be held to be the interpretation of the Imperial Government; but, in fact, the “Order in Council” is so clear that it will not bear any other construction.—App. 22.

Again, by an Order in Council, dated 18th July 1849, the Governor was prohibited from selling any portions of

reserves to any other person than the holder of the lease, for the purpose of pasture or *cultivation*.—App. 24.

The government exceeded its power by making large reserves; and the late Lieutenant Governor of Victoria, then Superintendent of Port-Phillip, destroyed the virgin peace and prosperity of Australia Felix, by his legion of townships and reserves. On the 1st July 1851 he had made no less than 246 reserves beyond the settled districts, containing an extent of 681,700 acres. (App. 76.) He added to their number largely since then. The government of New South Wales has in a great measure rectified the error at first fallen into, as, by a proclamation of the 11th March 1852, the lessee in that Colony is empowered to nullify the reserve by applying to exercise his right of purchase.—App. 21.

The practice of the government of Victoria, on the contrary, has been to sell, right and left, utterly regardless of the claims and protests of the tenants of the Crown. While Port-Phillip was under the jurisdiction of New South Wales, the opinions of the Crown law officers (App. 27, 29, 30, 31, 41, d. f.) being clearly against the power desired by the Superintendent of Port-Phillip, Charles Joseph La Trobe, Esquire, restricted that officer for a time, and ought to have satisfied him that it was never intended that he should have the very arbitrary power of selling the lands of any unoffending or offending squatter when he thought proper. But no! the opinions of professional men of high legal attainments and matured experience, like the Crown law officers of New South Wales, did not satisfy him—nor would the interpretation of the imperial Government, through the Secretary of State for the Colonies, guide him,—he was blinded with the “love of power”—a power that no wise man would

wish to have the responsibility of exercising amongst a free and enlightened British community. And, very soon after he became Lieutenant Governor of Victoria, he obtained opinions from Law officers of his own appointment, which opinions, *vague* as they were, partly coincided with his own, though in the main against him—as it was only where there was “*an absolute necessity*,” and not to meet “*the prospective wants of the community*,” that they thought he had the power to sell.—App. 41, *g.*

On the 1st January 1851, there were 5,600,000 sheep, and 308,000 cattle, depastured beyond the settled districts. (App. 72.) On the 29th March of the same year, the population beyond the settled districts was only 13,914, consisting of 10,029 males, and 3,885 females. (App. 75.) It is very obvious that that small population were barely sufficient to manage such a large number of sheep and cattle; to wash, shear, and carry to a seaport, about 18,000,000 lbs. wool: in fact they were all employed in pastoral pursuits; there was no other source of industry within these districts. The remainder of the population were fully employed in various pursuits in and around Melbourne and the settled districts, and their prosperity dependent upon the prosperity of the pastoral interest entirely. Where then was the “*absolute necessity*” of a legion of townships and agricultural reserves? Nowhere except in the imagination of His Honour the Superintendent and the Landjobber. The pastoral interest was the only interest beyond the settled district, and did not require either townships or agricultural reserves. The squatters had a right to cultivate grain for themselves, though generally they preferred purchasing flour at the shipping ports, and carrying it on their return wool drays, which would otherwise reach the stations empty. The

Australian flockmaster found that he could grow wool at a greater profit than he could grow wheat, and was glad to benefit the commerce of the colony by exchanging the proceeds of wool for flour. His energies were directed to improve the quality and increase the quantity of the staple of the country. It need scarcely be said that his exertions were eminently successful, and that all other classes in the colony participated in his prosperity. From 1807, when Captain M'Arthur first exported 245 lbs. wool, to 1850, the quantity increased to the enormous amount of 39,000,000 lbs. The British manufacturer receives the whole of that immense quantity, which exceeds all other imports of wool into Great Britain besides. From 1851 the progression in Victoria both in quantity and quality has been assuredly reversed; and I fear, under present prospects, that the decrease will be more rapid than the increase was. Official returns may have unfairly shown for the last two years an increased weight, but the most of the material, "*not being washed*" as formerly, contained nearly 50 per cent of grease. A short time may tell whether it has not been impolitic, as well as unjust, to discourage an interest that has developed the resources of a wilderness so soon, and whether the British woollen manufacturer may not yet have cause to lament its decline.

The squatters never questioned the power of the government in establishing inns and police along the thoroughfares, nor of granting sites for churches, schools, &c.; on the contrary, they subscribed to build churches and schools, and paid assessment for police expenses.

That the occupiers of Crown lands have acquired an equitable title to a lease, with an option of purchasing the lands at a fair value, no one can deny; but should the

reader have any doubt on the matter, let him carefully peruse the "Order in Council," (App. 4, and particularly the 6th Section,) which expressly prohibits the sale of the lands to the public, until after the lessee has exercised his right of option to purchase; let him also observe the 10th and 15th sections. The 7th section defines such lands as the Governor is empowered to refuse to sell to the lessee. The 8th section defines such lands as may be reserved for public purposes. The 9th enumerates, in *great* detail, the public purposes for which the Governor has the power to make grants or sales of, concluding with the following words, "or for any other purpose of *public* defence, safety, utility, convenience, or enjoyment, or for otherwise facilitating the improvement and settlement of the Colony; but so that the quantity of land which may be granted to any railway company, shall not exceed, in all, the rate of 100 acres for every mile thereof in length." Great stress has been laid upon these words by the opponents of the squatting system; but these words imply only *public* purposes, and that the Governor might "*otherwise*" than by sale or grant,—dispose of lands for public purposes, for instance, to lease them,—but even for public encouragement in establishing railways, he was restricted to 100 acres for every mile of the line, which is only a breadth of 275 yards, the adjoining lands for 2 miles on each side of the line, if within the Unsettled district, to be brought under the regulations of the Intermediate district. If it had been intended to have given the Governor the power of selling the lands indiscriminately to private persons, by auction, whenever he thought proper, it would have been most absurd and superfluous to have made any division of the Colony into districts under different regulations, and equally absurd and superfluous to have mentioned *public*

purposes at all; because, if the Governor had the power to sell to a private individual for *any* purpose, there would have been no occasion to have reserved a power to sell for *public* purposes; but, if it admitted of the least doubt, the prohibition in the 6th section, the provision in the 10th section, and the conditions of the sale in the 15th section, must completely remove it; Lord Grey's dispatch, already referred to, interprets the matter so clearly, that it certainly does not admit of a doubt.

It is hoped that enough has been adduced in this chapter, to prove that the claims of the tenants of the crown in Victoria are strongly and fully established in law and equity. There was no necessity to have infringed upon their rights. There were not even gold-digging agitators to intimidate the Government for several years after it had entered upon its invasions; but, had there been, it could not have justified the destruction of private property without compensating the sufferers.

It has been already shown that, in 1851, the population beyond the settled districts, consisting only of 13,914 souls, men, women, and children, were all *profitably* and *fully* employed in the production of an export alike valuable to the colony and the manufactures of the mother country; it has also been shown that a legion of 246 reserves were made prior to the 1st July, 1851, before any gold digging interest, or any other interest, except the pastoral interest, existed in these districts; consequently, as there was no other interest, there could not be any *public* requirements, not even for townships, as inns had been long established, and were recognised by the Squatters for their general accommodation as public requirements.

The state of matters after the gold discoveries will be

observed in the sequel, though nothing can affect just rights acquired by law.

The Reserves in the Intermediate districts were entirely superfluous, because the Governor had the power, on giving 60 days' notice, of throwing any extent of land required into the market; and, if there was any error originally in giving an undue extension to the unsettled districts, it was not the fault of those who obtained exclusive privileges, but that of the local authorities, who had power to extend the Intermediate district up to the beginning of 1849.

It is thought by some that the Colonial Office (after the evasive despatch of the Duke of Newcastle, which will be observed hereafter) will try to get rid of the responsibility of redressing the grievances of the Crown tenants in Victoria, and may throw the onus of repairing the violations of the late Lieutenant Governor upon the Legislative Council. But surely the British Government, who are now so nobly expending their best energies in the Crimea in redressing the wrongs of the Turks—and who are now requiring the Government of Greece to indemnify Greek subjects for losses suffered from the insurrection—will not themselves shrink from indemnifying British subjects for losses sustained at the hands of Her Majesty's representative. Surely they will not be pusillanimous enough to HAZARD *the sacrifice of rights granted direct from the Crown*, which they would assuredly do, if they delegated the power of settlement to the local Legislature; for amongst the many evils the pastoral interest has sustained from the invasion of townships, is included that of the total destruction of the representation of that interest in the Legislative Council—so complete a destruction, that it is questionable whether

the pastoral interest will ever be able to return another member: under such an adverse state of things, it would be manifestly dishonourable in the British Government to fly from its path of duty.

The squatters, as tenants holding directly from the Crown, expect the Crown, as landlord, to fulfil the conditions of the lease, and secure them undisturbed possession; but should the Crown deem it judicious, in order to satisfy the unreasonable cravings of an unsettled people, to extinguish the privileges of the leases by a scheme of compensation, as suggested by the Duke of Newcastle and others, (App. 54, 58,) the position of the parties require that that compensation be determined by the Crown, or by valuers mutually chosen by the Crown and the tenant, in the way pointed out in the valuation of land, where the Governor has the power of finally appointing the umpire, and so really fixing the rate. The difference of value of the live stock *without a run* and their value *with a run* would be a fair compensation.

The British Government can only be actuated by a desire to do justice to those dependent upon it—and it is trusted that it will not be swayed out of its path of rectitude by the prejudices of any party, whether in or out of office; and that it will not sacrifice justice on the altar of expediency or convenience. The pioneers of Australia ask only for Justice; and Truth will point out what justice is due to them.

The question of the appropriation of the sums of money arising from the assessment upon stock, requires to be better understood than it generally is. The assessment was levied originally at the desire of the squatters themselves, for the maintenance of police and other local purposes beyond the settled districts (see App. 2, clause XI.);

and although the Legislative Council is empowered by the "Order in Council" to levy a sufficient rate for such local purposes, it cannot legitimately impose a higher rate than sufficient for such purposes; or appropriate the rate to any other purpose.

The documents referred to in the Appendix are obtained from the Records of the Legislative Council of Victoria, with the exception of Nos. 55 to 61 inclusive, together with 74 and 78. The writer can safely vouch to the authenticity of the whole of these documents, as obtained from various sources, which they themselves will show.

## CHAPTER II.

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### IMPOLICY OF DISTURBING THE LAW.

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Power to Sell Challenged—Pre-emptive Right—Opinions of Crown Law Officers—Instructions to concede Pre-emptive right—Instructions disobeyed—Urgent request for Re-consideration—Opinion of Law Officers of Victoria—Reserves not justified—Survey of Runs retarded by Survey of Townships—Population dispersed—Agrarian feelings fostered—Cause of Scarcity of Butcher Meat—Capitalists leaving the Colony—Decrease of Stock—Policy of granting the Pre-emptive right—Lands applied for—Average Price of Land—Crown Tenants' capital idle—Policy of the Order in Council—Government bound to establish rights—Decrease of Agriculture—Intimidations and Misrepresentations of the Press—Squatters want of confidence in the Government.

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Having in the preceding chapter reviewed the claims of the tenants of the Crown in point of law, it follows now to expose the impolicy and injustice of disturbing these claims.

In November, 1847, Messrs. Moore & Griffiths challenged the power of the Governor to sell land upon their run. The lands were withdrawn from sale. (App. 25.) The Crown Law Officers' opinions were taken, which opinions (App. 29, 30, 31, and 34) show that the Governor had no power to sell any portion of the runs beyond the settled districts, except for public purposes. The Governor's encroachments were thereby restrained for a time.

On the 7th Nov. 1850, Messrs. Jeffries applied to purchase lands upon their run, under the pre-emption right, and disputed the power of the Governor otherwise to sell the lands before they had an opportunity of exercising their option to purchase. (App. 41.) The lands were withdrawn from public sale, and His Honour, the Superintendent, submitted the case to the Government, and, in doing so, said that "*the validity of the act of sale must depend upon the decision of the law officers.*" (App. 41. 6.) The Colonial Secretary, in reply, wrote, "your Honour sees cause to question the right of these gentlemen, not only to the obtaining of the lands at the upset price, but to the exercise of any pre-emptive right whatever in respect to them; without questioning at length the arguments adduced in the report of the Attorney-General and Solicitor General, it may be sufficient to state that these officers, whilst admitting the actual power of the Government to sell the land in question to the highest bidder, are yet of opinion that *such sale would not be in accordance with the spirit of Her Majesty's Order in Council*, and the Government can have no desire to assert extreme rights, but, on the contrary, has every disposition to act up to the spirit of the Order in Council, His Excellency conceives that the *claims of the gentlemen referred to, and every other pre-emptive claim of the kind, which is not overruled by a strong public necessity, should be conceded.*" (App. 41.) Such *decided* instructions from a superior officer, based upon the opinions of the Crown law officers, ought to have been obeyed by the Superintendent, as, to repeat his own words in submitting the case, "*the validity of the act of sale must depend upon the decision of the Crown law officers.*" But no! he was determined to have the irresponsible power of *making or marring* the fortunes

of every squatter at his will : he delayed to carry out the decisions of the Governor, and urgently requested the reconsideration of the decision arrived at. (App. 41. e.) In the 8th part of his letter he writes about reserves being *absolutely necessary* for the settlement of the district, and, in the 6th paragraph, about "lands in such and such quarter being called for by the public," forgettiug that there were then *no public* beyond the settled districts, except the public employed in pastoral pursuits, as has been proved in the preceding chapter; yet His Honour thought Messrs. Jeffries' claim, and the claims of many others, to be overruled by a strong public necessity, when there was no necessity whatever. To get rid of the importunity of His Honour, the Sydney authorities, preparatory to the separation of Port-Phillip, left the further consideration of the question to the government of Victoria, of which His Honour was to become the Head. (App. 41.†) His Honour, now Lieutenant Governor of Victoria, appointed law officers, and soon obtained an opinion from them, which opinion, though vague, is sound upon some points. Their interpretation of *public* purposes is thus:— "The general words," or for any other purpose of public defence, safety, utility, convenience, and enjoyment, "occurring in the 9th section, must, according to the ordinary rules of construction, be interpreted with reference to the particular instance—lands, the subject of these instances, are all to be appropriated to public purposes, in *the enjoyment of which every person may participate*. They are converted by the grant, sale, or other disposal mentioned in that section, as it were, into public property, and dedicated to the use of the inhabitants *generally*." (App. 41. g.) Much stress has been laid upon this opinion by his late Excellency, but it clearly shows that a sale to any

*private person* cannot be a sale for *public purposes*; so that a village allotment is as much private property as a block of 1000 acres.

Further on in the same opinion, they say, “we consider that the Governor, when satisfied of an *absolute necessity*, *would be justified in selling, or reserving for immediate sale*, such portions of the lands in the intermediate or unsettled districts as may be required for the formation and support of these towns and villages. But we are of opinion, that it would not be in accordance with the correct interpretation of this section, nor within the spirit of the Order in Council, were the Governor, without reference to the sites of towns or villages, or *present and pressing public requirements*, to reserve for sale portions of land in those districts, with a view of meeting the *prospective wants* of the community!” Under this opinion even, how could the 246 reserves, containing 681,700 acres in the intermediate and unsettled districts, be justified, at a time when there were only about 13,000 people in these districts, and these people all profitably employed in pastoral pursuits to *the public advantage*. There was no “*absolute necessity*” for a single reserve then. The “wants” were all “*prospective*.” However, His Excellency was bent on “power;” the squatter’s legal rights were disregarded; the lands were sold, and the moneyed land-speculator may thank His Excellency for the spoil.

The delay in the issue of the leases was attributed by the Governor to the want of a sufficient number of surveyors; but the surveyors being employed in laying out the townships and reserves, for the “*prospective wants*,” could not be employed at the same time in defining the boundaries of runs. The townships were not wanted, however, and had the surveyors been legitimately employed, the runs

would have been very soon surveyed and described, as it is only the extremities that require measurement; and many of the runs bounded with water courses, dividing ranges, roads, &c., require very little measurement to describe them accurately.

The consequences will be that the population will be thinly dispersed in a multitude of miserable small townships, without proper police protection, where they will be a thorn in the side of the pastoral interest; they will individually own a few cattle, and their agrarian views will lead, as it has done already in the neighbourhood of Kilmore, to deeds of barbarous cruelty and destruction of property. Had there been no rights in the way, it would have been most impolitic to have scattered a profusion of townships and reserves throughout the country, to damage and destroy an interest so essential to the prosperity of the country; the public already feel the effects of that discouragement in the high prices and scarcity of butcher's meat. It may be said, however, that high wages has been the cause of producing that scarcity; and it may be admitted that it has had something greatly to do with it; but the main cause is a feeling of great discontentment, arising from the encroachments upon the runs, and the *want of confidence* in the Government. The flockmaster, having lost the security of tenure which he formerly felt, could not safely increase his flock, because, if he lost his run, as his neighbour had done, his flocks would be worthless to him; and, if they became diseased, he could not remove them, and he dared not to sell them. There are instances of several runs adjoining to each other being completely lost in that way. The higher prices now obtained for the stock more than covers the high wages;

but nothing can cover the lawless spoliation of a Government, or make the injured feel contented.

In another way, the colony suffers from denying the squatters their right of purchase, as many are selling off, and leaving the colony in disgust, abstracting capital which would otherwise be invested in the purchase of a portion of their runs. If the present retrogression in the decrease of their stock is not checked, it will become questionable whether a considerable portion of the Crown lands of Australia, now under occupation, may not revert to their original state of unproductiveness.

The granting of the pre-emptive right to the *fullest* extent would have accelerated the settlement of the country, and would have established a respectable class of proprietors, who, from practical knowledge of the capabilities of the colony, and from the possession of means, would have developed the resources of the colony to a much greater extent than has been done under a vacillating administration.

The whole of the lands applied for under the pre-emptive right, on the 12th May, 1850, was only some 50,000 acres. (App. 67 and 70.) It could not be sold for less than 20s. per acre; if it was worth more, the Governor had the power of valuing it. The average price of country lands, sold from 1837 to 1851, was £1 1s. per acre, (App. 66), and from 1851 to 1st July, 1852, it was only £1 6s. 7d. per acre. It therefore follows, from the low price realised for lands, even within the settled districts, that there could have been no great loss to the Revenue had the Crown-tenants got all the lands they applied for, beyond the settled districts, at the minimum price of 20s. per acre; but if it was worth more, they were willing to have paid value for it. At the

time they applied to purchase these 50,000 acres, which they had a perfect right to do at a fair value, the value of land was very low ; and if that value has greatly increased since the time they applied to purchase, it should be held to their advantage, because the applicant's belief that they would get what lands they applied for, deterred them from otherwise investing their capital, which they could have done in many other ways to equal advantage ; their applications lay for years "under the consideration of the Land Board," as the return App. 70 will show, and their capital was during that time comparatively idle, waiting in expectation of "His Excellency's approval of their claim to purchase." It is well known that capital invested in land or houses, in and around Melbourne, during these years, has increased generally 1000 per cent : then, why should the capital of the Crown tenants, which legitimately sought investment in those years, have been rendered unavailable through the indecision of the Governor? For had their claims met even with a refusal, in place of their applications "being under the consideration of the Land Board" for years, their expectation would have ceased, and they would have felt at liberty to have made other investments.

The best policy, perhaps, that can be adopted in the settlement of a new country, is to give the first occupant protection against intrusion, with a right to purchase "at a fair value;" in short, to carry out Her Majesty's "order in Council." It is surely not too much to give the man who first explores and occupies new tracks of country, at the risk of his life and property, a preferable claim to purchase "at a *fair value*." The Australian pioneer required nothing more, and the Queen in Council conceded that right to him, under the authority and sanction

of Parliament; and the honour of the nation requires to secure him in his just and lawful rights, and to cause him to be indemnified for the encroachments made upon his rights by the representative of the Crown.

The minutes of arguments adduced by a deputation of occupiers of Crown lands, through their very able leader the Honourable J. F. Palmer, the Speaker of the Legislative Council, are much to the point.—See App. 43.

By returns furnished by the Lieutenant-Governor, in May, 1853, he showed that there was a decrease of lands under cultivation, from 57,298 acres in 1851, to 36,658 acres in 1852. (See App. 77.) By the same returns he showed that 726,961 acres had been sold prior to 30th May, 1853, or twenty times the extent of land under cultivation.

These returns include the *Crown* lands in the pastoral districts under cultivation, as well as the purchased lands throughout the whole colony; and if such Crown lands were deducted, say one-eighth, it would have left only about 4 per cent. of the purchased lands under cultivation; yet, in the face of such facts, elucidated by himself, the Lieutenant-Governor went on adding to his array of “agricultural reserves,” under the guise of “public requirements,” without any regard for the remonstrances of the despoiled tenant of the Crown. The land-jobber, through the constant howling of an ill-informed press, accelerated his aggressions. They made the public believe that he was the friend of the squatter, and used means to intimidate him from his path of duty. The Government was described to be a squatter Government—the Governor was declared to be a squatter himself, and to be in league with the squatters and their representatives in the Council, and such unfounded fabrications. The squatters, how-

ever, knew better to their cost ; and although their claims " were under the consideration of the Land Board," and generally considered in a measure dependent upon the irresponsible will of the Executive, two out of the three representatives of the three purely pastoral districts voted with the minority against the Government, in Mr. Johnson's motion of the 23d November, 1852, expressing a want of confidence in the Government.

The opinions of the Legislative Council will be reviewed in the next following chapter.

## CHAPTER III.

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### OPINIONS OF THE LEGISLATIVE COUNCIL.

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Mr. Johnson's Motion Relating to the Sale of Lands at the Gold Fields, amended—Colonial Secretary's Admission of the Pre-emptive Right—Motion for the Extension of the Settled Districts defeated—Immediate issue of Leases and Sale of Lands under the Pre-emptive Right recommended by a majority of 18 to 9—Reference to the Home Government—Provision in the Draft of the New Constitution for the fulfilment of the Promises of the Crown.

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To follow out the arrangement in the Appendix, it is here requisite to review the votes and proceedings of the Legislative Council of Victoria, which although favourable to the claims of the Crown Tenants, can only be received as the *opinions* of a body, which had no power to interfere with the administration of the Crown lands.

The first opinion emanating from that body was arrived at on the 20th July, 1852, when Mr. Johnson moved, "That an address be presented to His Excellency the Lieutenant-Governor, requesting His Excellency to cause measures to be taken for bringing into the market a large extent of land, suitable for agricultural purposes, in the immediate vicinity of the Mount Alexander and

Ballarat gold fields," upon which an amendment was moved, to add the following words, "*in accordance with the provisions of the Orders in Council, a due regard at the same time being had to the rights and interests of the occupiers of the land.*" (App. 44.) A long debate ensued, for a report of which see App. 45; during the debate, the mover of the original motion, whose views were considered inimical to the claims of the Crown tenants, stated frankly in his reply, that "if the squatters did not choose to take the land at a valuation, and when the Government had the power of appointing two valuers out of three; if the valuation was incorrect, it was not the fault of the law, but of the impracticable Government." He disclaimed any intention of interfering with the rights of the squatters, and considered the amendment unnecessary; but it was thought that the original motion, if left on the records of the House, without the qualification of the amendment, might be construed into an approval of the *illegal* sales of land by the executive: the amendment was, therefore, put to the vote, and carried. During the debate, the Colonial Secretary, when speaking of some lands that had been withdrawn from sale at the instance of an objection raised by the occupier of the land, said "These lands could be put up on a future occasion, when a certain notice might be given to the squatter that a part of his run would be offered for sale, and the squatter could then, if he choose, claim the privilege of purchasing such part." Yet, notwithstanding that explicit course of action pointed out by the organ of Government, in his place in the House, these very lands have been since sold to the highest bidder; and the squatter who applied to purchase them has been denied the exercise of his option to purchase. He was also

debarred from purchasing at auction, because, if he had done so, he would have become a consenting party, and would thereby have lost recourse against the Government for the infringement upon his rights.

Eight days after the amendment of Mr. Johnson's motion, Mr. Fawkner moved, "That an address be presented by this Council, requesting His Excellency to represent to the Queen in Council the urgent necessity for extending the area of the settled districts of Victoria, and that His Excellency will be pleased to strenuously urge upon the Home authorities the vast importance of the extension, and the necessity for its instant adoption; and that such a large addition has been, and is daily being made to the population of this province, in consequence of the gold found here, that not less than the whole of the intermediate district, together with all that extent of country in which gold can be profitably worked, ought to be included in and under the title of settled districts." (App. 45.) Upon which Mr. Rutledge moved, as an amendment, that all the words after "That" be omitted, with the view to insert the following words, "*That leases be immediately issued to the occupants of Crown lands, to bear date on the 7th April, 1848, in order that the lands may be opened for sale under the Order in Council of 9th March, 1847, in quantities to meet the demand of the increasing population of the Colony.*" The amendment was carried by a majority of two to one—18 to 9—out of a House consisting of only 30 members, inclusive of the speaker—two members only being absent. The amendment is, therefore, a *decided* opinion of the Legislature, as to the interpretation of the spirit of the Order in Council, and the settlement of the land question; and it agrees with the interpretation of Lord

Grey and the Crown law officers already adverted to ; but unfortunately it did not agree with the views of the Lieutenant-Governor, who took no steps to carry out the leases.

On the 17th August, 1852, Mr. Fawkner moved "that an address be presented to His Excellency, that he will be pleased to withhold the granting of *all* 'lands' to all persons who may have claimed, or may claim lands under the so-called pre-emptive right, conferred, or supposed to be conferred by the Order in Council, dated England, in 1847, until this matter shall have been brought under the notice of Her Majesty in Council." Upon which Mr. Polhman, a nominee, and holding office under the Government, moved, as an amendment, the insertion, after the word "lands," of the words "*beyond the homesteads, or such quantity of land as to His Excellency may appear proper in each particular case,*" to all persons who may have claimed or may claim lands under the so-called pre-emptive right, conferred, or supposed to be conferred by the Order in Council, dated England, in 1847, until this matter shall have been brought under the notice of Her Majesty and Council." The amendment was seconded by the Colonial Secretary, and carried without opposition. The representatives of the pastoral interest, confiding in the good faith of the British Government, preferred to refer their disputed claims to the arbitration of the Crown ; in fact, they never recognised any other power to deal with their claims. Being in the position of tenants holding directly from the Crown, they fully expected the Crown, as landlord, to fulfil the conditions of their leases, which were implemented both by the Crown and the tenant, as is shown in the first chapter. It is very apparent that the amendment was the handi-

work of the executive; it did not venture to disturb the opinion formerly expressed as to the "immediate issue of the leases," though it recommended the sale only of such portion "*as to His Excellency may appear proper,*" *until the matter was referred to the Crown.* It was then, as it had ever been, the desire of the Executive to refuse to grant the pre-emptive right, and in order to suspend the granting of that right, and have some reason for refusing to comply with the expressed wishes of the Legislature, so explicit in Mr. Rutledge's amendment, and in Mr. Johnson's amended motion, the Executive got rid of "immediate" action by a side wind.

The Legislative Council of Victoria made the following provision, in the last clause of the proposed new constitution for that Colony: "Provided that nothing herein contained shall prevent, or be construed to prevent, the fulfilment of any *contract, promise, or engagement*, made by or on behalf of Her Majesty, with respect to any lands situate within the said Colony, in any cases where such contract, promise, or engagement shall have been lawfully made before the time at which this Act shall take effect within the said Colony." And the Legislature of New South Wales made more explicit provisions, guarding the vested rights granted under "promise" and "engagement" of Her Majesty, in the draft of the proposed constitution for that Colony. The Legislature of Victoria has not since expressed any opinion on the question.

In a pecuniary point of view, it will be immaterial to the Crown tenant whether he gets his lease with the privileges attached to it, or a fair compensation instead thereof. But the loss of the "run," under any circumstances, will hurt the feelings of many who have respectively

formed attachments to the localities which they redeemed from the wilds, and which they were long taught to look upon as their home and the home of their children ; and no one but themselves know the miseries and anxieties they suffered there, amidst the insubordination of pampered servants ; and when their property and their lives were at the mercy of the aborigines of the country, it was only the *hope of making a home* that enabled them to surmount these dangers and difficulties ; and it is not without a bitter pang they will part with that hope, the loss of which no pecuniary consideration can compensate.

## CHAPTER IV.

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### OFFICIAL DESPATCHES TO AND FROM THE COLONIAL OFFICE.

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Delay in the Settlement of the Question—Strength of Claims confided in—Want of Representation—Compensation suggested by the Duke of Newcastle—Errors regarding the Views and Claims of the Squatters—Development of the Resources of the Colony—Compensation suggested by the late Lieutenant-Governor—Error regarding the Maximum of Pre-emptive Right—Quibbling—Governor can only legally refuse to sell such Lands as are described in the 7th Section of the “Order in Council”—Admission of Claims—Injustice of antedating the Leases—Appeal to the Law—Sale for speculative purposes Illegal—Infringements unnecessary—Colonial Secretary’s interpretation of the Privileges of the Crown Tenant—Disproportionate Sale of Lands under the pre-emptive right in the several Districts.

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THE late Lieutenant-Governor, by a long complicated despatch to the Secretary for the Colonies, which was more an attempt to justify the illegal encroachments of his Government than a fair representation of the claims of the Crown tenants, brought the question before the Colonial Office. The despatch was dated 28th December, 1852. The *early* settlement of the question was a matter of great importance to all parties; yet His Excellency allowed upwards of four months to elapse before he despatched the case to the Colonial Office, and

the Duke of Newcastle's despatch of the 23rd November, 1853, did not reach the Colonial public before the 14th March, 1854. In the meantime the squatters confided in the strength of their rights, and in the integrity of the British Government—they were so much off their guard, that they did not appoint any one to represent their claims to the Colonial Office, nor did they secure the advocacy of any section of the press in either Melbourne or London. They confided too much in both their *legal and moral rights*; and it is much to be regretted that circumstances could have led a Minister of the Crown to write such a document as that evasive, indefinite despatch of the Duke of Newcastle's. (See App. 54.) The instructions to the Governor, in the twenty-fourth paragraph of that despatch, are absurd in the extreme: namely, to give a *nominal* lease to such parties as may be silly enough to give up their equitable title to a *bona-fide* lease, with an option to purchase at a valuation. At the same time, the suggestions in the twenty-sixth paragraph, proposing a scheme of compensation from the lands of the Colony, is perhaps the most practicable mode for the indemnification of the destruction of vested rights.

The late Lieutenant-Governor, in the sixty-sixth paragraph of his despatch, of the 28th December, 1852, writes "that the extension of the pre-emptive right over the whole of the lands covered by their lease, with the exception of such portion as the Crown may be legally considered empowered to reserve from, or withdraw from occupation, under the 9th section, was neither *asked for*, nor *dreamed of* in this Colony, either by the settler or the executive Government." But His Excellency must have forgotten facts, as, with that very despatch, he sent

inclosures to show that parties had very early challenged his power otherwise to dispose of the land upon their runs: see Messrs. Moore & Griffiths, Messrs. Jeffries, and Messrs. Booth & Argyle's claims. (App. 25, 41, and 60.) Again, in the sixty-seventh paragraph, His Excellency writes, "Why should the lessee have the advantages of that purchase under the pre-emptive right? I cannot for my part assign a satisfactory reason." No, he could never see any reason for the fulfilment of Her Majesty's promises, nor for the obedience of the orders of superiors, though given under the solemnity of advice from the law officers; far less could he see the moral claims of the men who had, at the risk of life and property, explored and occupied a country lying waste and wild for ever before—a country which, were it not for their untiring exertions, would yet be in its primitive state of unproductiveness; and the wonderful golden treasures of Australia would yet be undiscovered. But, in the seventy-fourth paragraph, His Excellency comes to the conclusion that "if the Orders in Council, when properly interpreted, are seen to have given to the stockholder rights which cannot now be justly taken away, I believe I speak the sentiments of the Colonists as a body —let compensation be made at any sacrifice, but at every risk let these exclusive rights, where they are seen to operate to the public disadvantage in *appearance*, if not in *reality*, be done away with." The opinions of the Crown law officers are, that the Crown tenants have such exclusive rights; why, therefore, not come to the point at once, and say that as these *exclusive* rights are apparently disadvantageous, take them away and give compensation for them.

The Duke of Newcastle, in the sixth paragraph, of the

despatch, (App. 54,) writes, "they seem to have enjoyed up to this time the full benefit of leases;" in which he is greatly in error, as they were denied their privilege of the option to purchase. His Grace is much in error again in the seventh paragraph, and is evidently misled when he writes, "It was not intended to give them advantages beyond other members of the community towards becoming purchasers of land, except to the very limited extent required for their actual accommodation." His Grace could not have made himself acquainted with the "Order in Council," or the 9th and 10th Victoria, or he would not have penned such a sentence. The words in the 6th section of the Order in Council are, "any portion not less than 160 acres;" the minimum is limited, but the maximum is certainly not: if the quantity be less than 320 acres, the purchaser to have to pay the expense of survey, so that the Order in Council, in place of restricting the sale, offered a premium to any one buying not less than 320 acres.

The Duke, in the fifteenth paragraph of the unfortunate despatch so often referred to, says, "In the next place, although *the lessee in an unsettled district has an exclusive right of purchase during the currency of his actual or assumed lease*, I find no provision in Section 6 compelling the Governor to sell such lessee any land on his demanding it." But how can the lessee have an "*exclusive right to purchase*," if the Governor is not bound to sell? No barrister retained to plead could use more quibbling arguments. If His Grace had referred to the 7th section of the Order in Council, he would have found that such lands as the Govenor can *refuse* to sell are described in that section; and, with the exception of such lands, the

Governor is clearly bound to sell all or any of the lands the lessee may require upon his run.

Yet, in the tenth paragraph, His Grace appears to admit almost every claim of the lessee. He says, "they appear to be entitled to demand leases, for terms not exceeding eight and fourteen years respectively—the right of pre-emption in the intermediate district—exclusive right of purchase in the unsettled district—and renewal of the lease."

But the only point which His Grace arrives definitely at, is the antedating of the leases to the 7th April, 1848; and had the occupants had the full benefit of leases, as His Grace inferred they had—had their applications to purchase under the pre-emptive right been approved of—there would be less to complain of the antedating of the leases; but that right was denied to them, and lands which of right ought to have been theirs were illegally sold by auction to speculators, who are now enriched by the increased value of these lands. Parties who have suffered in that way may appeal to the courts of law, unless the Crown affords them redress.

In the seventeenth paragraph, His Grace says, "It was intended to prevent land comprised in these runs from being sold by Government to parties purchasing for mere speculative purposes." Exactly; such was the intention of the Act: and if land is sold by auction, how can the Government prevent speculators from purchasing it? It is utterly impossible. And it is well known that nearly all the lands sold by Government are purchased on speculation; in confirmation of which, see (App. 64) sales of land at Melbourne and Geelong, in June, 1854. In the Melbourne list of land sold, near the Mount Alexander road, and only "from eleven to sixteen miles

from Melbourne," the first purchaser is Mr. Taylor, a large landed proprietor, down for 7 lots, of 640 acres each ; again, in the same list, there is Mr. Clarke, the largest landholder in the Australian Colonies, and perhaps the richest man in the southern hemisphere, adding 10 lots to his princely domain. Take the Geelong list, and out of 46 lots sold, Mr. William Harding, another large landholder, has bought 15 lots, or nearly one-third of the sale. These gentlemen have a perfect right to buy as much as they can for *any* purpose; but the system shows that it is as perfect an absurdity for the Government to say, that land sold by public auction to the highest bidder is a sale for *public* purposes—such as are enumerated in the 9th section of the Order in Council—as the buyer can apply the lands to the most worthless purposes. It may be in place to add here, that a great deal of lands illegally sold upon the licensed runs are not used for any purpose whatever; they are merely held for a rise in price. The sale of the lands ought to be encouraged as much as possible; but in selling the lands there is no necessity for infringing vested rights. Let the Government put a fair price upon the land, and require the Crown tenant to exercise his option of purchase within sixty days; or, if more satisfactory to the public feeling, extinguish the leases and the pre-emptive right by a fair compensation, when the lands would be legally open for sale.

On the 22nd March, 1848, the Colonial Secretary, under instructions from the Governor, and advice of the Executive Council, wrote to the Superintendent of Port Phillip, "If Mr. Coghill's run be brought within the class of intermediate lands, the Governor may sell any portion of it at the end of each year, on giving sixty days' notice,

but Mr. Coghill *will be entitled to exercise the pre-emptive right conferred on lessees.*" (App. 32.) Nothing could be clearer than the interpretation thus given of the power of the Crown, and the privileges of the tenant, and nothing can justify the illegal encroachments made by the Superintendent, in direct opposition to the views of the superior Government.

It is very remarkable, that, although the settled district is of very limited extent, and the pre-emptive right limited to a single section upon each run, that there has been nearly as much land sold within it, under the pre-emptive right, as has been sold in both the intermediate and unsettled districts; and that at a lower price. (App. 49, 50.)

## CHAPTER V.

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### EFFECTS OF THE GOLD DISCOVERY.

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Gold discovered in Victoria on the 8th July, 1851—Derangement of the industry of the Colony—Agricultural decrease—High prices—Im-policy of refusing the pre-emptive right—Bad faith of the Executive—Sufficient land legally open for Sale—Leases due long before gold was discovered—Crown tenant entitled to the increased value of lands applied for—Population quadrupled—High Wages diverted many from the Gold fields—Gold fields inexhaustible—Auriferous soil not adapted for agriculture—Rich volcanic soil convenient—Produce of bulky articles practicable—Gold exchanged for Flour—Expense of farming—Squatters the principal agriculturists near the Gold fields—Their importance acknowledged.

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THE discovery of the first gold field in Victoria was made known to the Government and the public on the 8th July, 1851. In the month of September following, there were 532 licences issued. During the latter months of 1851, and the whole of 1852, there was a regular rush of people, first from the distant parts of the Colony and the neighbouring Colonies, and afterwards from all parts of the world, racing to the diggings. Doctors left their patients—lawyers their clients—shepherds their flocks—farmers their crops—merchants their stores—builders

their contracts—sailors their ships ; and all joined in the scramble at the gold fields. At one time there must have been three-fourths at least of the male adult population at the gold fields. Some of the smaller townships were said to have been left entirely to the care of the women and children. Agriculture decreased 40 per cent. in 1852. Prices of hay, flour, and potatoes rose to £100 per ton. The Melbourne press blamed the squatters and the land system, when they ought to have blamed the Government, and those who deserted their farms in their scramble for gold. The Executive listened to the clamours of the press, and, in place of granting the homestead sections to the squatters at once, which would have gone far to have met the agricultural wants, it left their applications under the withering delay and uncertainty of the “consideration of the Land Board” for years ; and it was not until 1854 that some of these applications for land close to the gold fields were approved of.

In bad faith the Executive, notwithstanding the reference of the question to the Home authorities, sold the lands ; and in place of complying with the law, as interpreted by the Imperial Government, the Crown law officers and the Legislature, it invaded the sacred precincts of the law, violated the rights of property, and repudiated the promises and contracts of the Crown, as has been proved in the first chapter.

The Executive may shelter itself under the miserable plea of expediency ; but, with a firm, decided, energetic Government, there would have been no such plea for expediency. For had the leases been granted, and the lands thrown open for sale under the Order in Council, as pointed out by the Legislature, (App. 45,) there would have been ten times—yea, an hundred times—more land in

the market than was required, and the law would at least have been respected. It was not the place of the Government to exact the uttermost farthing for the land; but if the land had peculiar advantages, the Governor had the legal power of exacting full value for it. Why then should the Government not have taken the legal mode of disposing of it? Because it was an "impracticable Government," and perhaps because it was jealous of the wealth and respectability of the Crown tenants as a class.

The Crown tenants ought to have been in possession of their leases years before gold digging was known in Victoria; indeed His Grace of Newcastle held them to have been in possession of their leases since 1848, by his instructions to have the leases *antedated*. (App. 54.) They had, at all events, both a *moral* and a *legal* right to have had their leases; and it is hard that, through the delay and indecision of the Executive, they have been precluded from the benefits of the leases. Assuming that they had their leases, and that their pre-emptive applications had been "approved of," when made years ago, (which ought to have been,) would they not be as much entitled to the recent rise in the value of property as those who hold property in Melbourne and the settled districts are? Most decidedly they would; but their applications were *received* (*not refused*), and left to the slumbering "consideration of the Law Board" for years, during which time their expectations of purchase prevented them from otherwise investing their capital in land.

A migratory people, consisting chiefly of males, collected from all parts of the world at the gold fields, and the population of Victoria, from some 70,000 in 1851, quadrupled itself in the three following years: it being

now estimated at 280,000. The high rate of wages abstracted a large proportion from gold digging pursuits in 1853 and 1854; and although the population of the Colony has been greatly augmented during these years, the real gold mining population has increased but very little during that period, which accounts for the apparent falling off in the produce of the gold fields; but which are still steadily yielding up their treasures in abundance, are increasing in extent, and are likely to occupy the labour of ages to exhaust them. New South Wales, though not hitherto so rich as Victoria in auriferous deposits, is of much larger extent, and the probability is that an equally rich gold field will yet be discovered in that Colony, where the gold is known to be widely spread over its surface, and where the geological formation is very similar. The auriferous soil is generally very poor, and ill adapted for agriculture; but there are generally patches of rich volcanic soil on the margin of the auriferous formation, where it is desirable that agricultural farms should be established, to supply the gold mining population with the bulkier articles of produce, such as potatoes, hay, &c. &c. But Foreign growers, having cheap labour, can undersell the Colonial grower in *portable* articles, such as flour; and the producer of gold, like his predecessor the producer of wool, will find it to his advantage to exchange his gold for flour; and his doing so will increase the exports and imports, and so add to the commercial importance and wealth of the country; for while the Victorian can dig twenty shillings worth of gold per day, which he can do on an average, his labour would be otherwise misapplied in digging on agricultural lands for less. The expense of erecting buildings and fences, clearing and breaking up

new land upon a farm, purchasing seed, working cattle and horses, drays, ploughs, harness, furniture, &c. &c. is so great, that it requires a much larger capital than is generally supposed to establish a moderately-sized farm; and a farm on a small scale is in proportion much more expensive. The price of the land is small compared with the outlay required in farming it. The fortunate gold-digger who has the means of working a farm, generally prefers returning to the locality he came from. The sale of lands should have been encouraged in place of having been locked up through the unjust indecision of Government; and it was of little consequence to the public whether the lands were purchased by the occupant, or, as they now are, by the land-speculator. But had the occupants been allowed to purchase the lands at a fair value when they applied to do so, they would, from their *practical knowledge* of the country, and the command of *means*, have long since established farms, and so have met in a great measure the agricultural wants; indeed, they were then the only class that could at all provide for such wants; and, even with their limited purchases, which have been *tardily* allowed to them, they are the principal agriculturists in the neighbourhood of the gold fields; and, to use the language of the late Lieutenant-Governor, in the 73d paragraph of that dispatch so often referred to in previous observations, their importance is justly verified. "That the pastoral interest should be protected requires no demonstration. Its due maintenance is for the present as necessary to the welfare and prosperity of the provinces as for the advantage of the mother country. It never can be overlooked, that but for the supplies which it has been enabled to pour into the gold districts, to the assistance of the thousands upon thousands rushing, without due preparation and

foresight, beyond the reach of the ordinary means of sustenance, the riches of the gold fields themselves could never have been developed as they have been. The peculiar and embarrassing circumstances in which this great interest is seen to be placed, in consequence of these very gold discoveries, may present further argument why it should meet with every degree of consideration." In the paragraph just quoted, and in the 74th paragraph of the same despatch, proposing compensation, which has been already referred to, it must be admitted that his late Excellency has, in justice, in a great measure, acknowledged the damage, with the view of repairing the acts of his own administration.

## CHAPTER VI.

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### GENERAL OBSERVATIONS IN CONCLUSION. •

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First Settlement of Port Phillip in 1835—Difficulties of the Early Settlers—Result of their success—Created Commercial Prosperity—Provided Means for the development of the Gold Fields—Led to the Discovery of Gold—Production of Enormous Exports—Ex-Squatters greatest Opponents to the Pastoral Interest—Mr. Foster's interpretation of the rights of the Squatters, in 1851—Wages in Victoria in August, 1854—Duke of Newcastle's application of the same Law differently—Opinions of eminent Barristers—Mr. Robert Lowe's interpretation, in 1847—Second Edition of the “Order in Council” proposed—the People misguided by the Press—Producee of Two Millions' worth of Animal Food—Modification of the Land Regulations—Scheme of compensation by the Melbourne Chamber of Commerce—Condemnation of the Procrastination of the Lieutenant-Governor, and the Despatch of the Duke of Newcastle—Home Government's responsibility—Legal Proceedings in defence of Rights—Prevention of a state of Anarchy—Settlement of the Question before the control of the Crown Lands is given to the Local Legislature—Representation of Pastoral Interest swamped—Dictation of the Press—Honour of the Crown pledged—Legal and Moral Claims entitle the Crown Tenants to a recognition of their rights—Abstract Conclusions.

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It is only nineteen years since the first settler, Mr. Batman, landed on the shores of Victoria, then Port Phillip; and the result of that settlement is wonderful in the extreme. Without any assistance from the Government,

the settlers risked their all—their lives, their properties; and, amidst hidden dangers, weary toils, endless cares, and sore annoyances, they spent the best part of their lifetime away in a comfortless, friendless, homeless wilderness; where not a few lost their lives at the treacherous hands of the savage; where many lost their capital; and where those who succeeded, did so only by long-continued exertions and severe privations. However, time and perseverance overcame many of their difficulties: their flocks increased under careful management; so that, in fifteen years from their first settlement, they exported a larger quantity of wool from Port Phillip than did any other port in the known world—a result almost prophetically foretold by Captain Macarthur—a result so beneficial to the mother country and to the Colonies—a result which created a commercial community, employed a large shipping, and built a city at Melbourne—a result which now providentially provides food for the multitudes rushing from all nations to reap the golden harvest, and which led even to the discoveries of these long-hidden treasures, and to the production of exports amounting annually to about 12 millions, and that from about a quarter of a million of people, being a rate of £48 per head for every man, woman, and child in the Colony—a production certainly unparalleled in any age or country before.

If such results are not morally worthy of gratitude, they ought at least to secure the lawful recognition of the rights of those whose energy and perseverance produced them. For, were it not for the squatters, Melbourne would yet have been a small straggling village, and the gold fields still an unproductive hunting-ground, under a few barbarous, cannibal savages.

It is a most remarkable fact, that the most unreasonable

opponents of the pastoral interest—whether as members of the Legislative Council or as editors of local newspapers—are those who were unsuccessful squatters themselves, and who would not battle out the difficulties of the “bush.” On retiring, they of course sold their runs at the best price they could get. Is it, therefore, consistent with any principle of justice or honour, on their part, to advocate the confiscation of those very runs for which they received a consideration?—in short, to induce one to buy a commodity, and then turn round and try to destroy it. No terms can be too strong to condemn such acts.

The following quotation from a work written in 1851, by J. F. L. Foster, Esq. formerly member of the Legislative Council of New South Wales, now the honourable the Colonial Secretary of Victoria, justly ascribes the cause and foundation of the prosperity of Victoria to the “energy of the squatters.” It also interprets the *conditions upon which the squatters hold their “improved tenure of land;”* which interpretation, coming, as it does, from one of great acuteness, who had ten years’ experience in Australia, who had been bred to the legal profession, and who now holds the most important office under the local government, may be considered valuable, and thoroughly disinterested, as it was given at a time when that gentleman was untrammelled with the chains of office; and who it is hoped will not now forget his interpretation of 1851, which is as follows :

“To the pastoral resources of the Colony however must be assigned the first place, as the cause and foundation of the prosperity above described. Of the exports, according to the official returns for 1848, out of a total of £658,511, £654,938 were strictly the produce of the

flocks. Due importance must therefore be ascribed to the energy of the squatters, and to the nature of their pursuits, which enables them at once, without expense, to make the land available for man.

"In this body may be found men of a description little to be expected from the barbarous appellation of 'squatter,' adapted by them from the Americans, who used it to designate a very different class. Among them may be found men retired from their professions, whether clerical, military, naval, legal, or medical; younger sons of good, even of noble families, who prefer seeking an active independence to pursuing the lounging life of drones in the mother country. Rough, no doubt, was at first their mode of living, and many were the privations of the early settlers; but a great change in their condition has taken place, partly from the increase of their means, partly from the *improved tenure of land, which has been lately granted to them by the Government.* Formerly all Crown lands were held by annual licence, the charge for which rested with the Governor. These by usage were renewable and transferable, but were liable to, and sometimes were, the subject of arbitrary decision. *At present the country is leased for terms of one, eight, or fourteen years; compensation for improvement is secured to the tenant, the RIGHT OF PRE-EMPTION is granted to him, and his rent is ASCERTAINED.*"

The above quotation is a very clear interpretation of the "Order in Council." The *charge* formerly made rested entirely with the Governor, who could raise the charge, and even withhold a renewal of the licence, at his pleasure. But the "Order in Council," so often referred to, "secured to the tenant *the right of pre-emption, and his rent is ASCERTAINED.*" It so rendered him independent of an

"arbitrary decision" of a Crown Land Commissioner, or a whim of an irresponsible Governor.

In illustration of the expenses of a sheep station in Victoria, the following return of wages, *with board and lodging*, is extracted from a letter from that Colony, dated 20th August, 1854. Shearers obtained 30s. per 100; ploughmen and bullock drivers 40s. per week, with board and lodging; day labourers, 10s. without rations, last season. It need scarcely be said, that the production of wool requires encouragement.

Mrs. M'Leod and three Sons,.....		
Donald M'Leod, shepherd,.....		
Duncan M'Leod, do. boy,.....	}	£200
Murdoch M'Leod, do. adult,.....		
Roderick Gillies, Wife, and three Sons (two of them boys), all employed hut-keeping and shepherding,	250	
Michael Hanlin, shepherd,.....	£60	
Mrs. M. Hanlin, hut-keeper,.....	50	
Michael Hanlin, junior, stock-keeper,.....	75	
John Hanlin, shepherd, (lad about 16,),.....	60	
Edward Hanlin, hut-keeper, (boy,),.....	60	
	<hr/>	£295
Richard Spence, hut-keeper at head station,.....	65	
Richard Day, general servant,.....	80	
	<hr/>	£890

It is publicly reported that the Duke of Newcastle has addressed a despatch to the Governor-General of Australia, to say that his despatch to the Lieutenant-Governor of Victoria, on the land question, is not applicable to New South Wales. But his Grace ought to know that Victoria was a district of New South Wales at the time, and for several years after the promulgation of the "Order in Council," and that the rights accruing therefrom are common to the occupiers of Crown lands in both Colonies. Why, therefore, should the colonists on the south bank of the Murray be placed at a disadvantage with those

on the north bank of that river, when they are all subject to the same law, which conferred equal rights to both.

The Resolutions adopted at a meeting, on the 2d of September, 1852 (App. 51), and the Petition (App. 53), are much to the point, and the opinions of the Crown tenants as a body are thereby fairly expressed.

The opinions of three eminent barristers, Messrs. Palmer, Fellowes, and Lowe, (App. 55, 56, and 57,) are clearly in favour of the claims of the Crown tenants. The opinion of the latter was voluntarily given before any aggression was contemplated by the authorities; and it is trusted that that gentleman, who now holds an honourable office under the British government, may, if consulted on colonial matters, see cause to adhere to the disinterested interpretation publicly given by him before any question was raised. Indeed, the "Order in Council" is so explicit, that it cannot fairly bear any other interpretation.

It is rather amusing to observe avowed opponents of the present squatting system—the candidates for the representation of Geelong, on giving their views on the settlement of the land question—unwittingly proposing a *second edition* of the present system. Mr. Carr "considered that the land should be surveyed far and wide, and that new arrivals should be enabled to take possession of the land at once, at *a reasonable rent, with a right to purchase.*" "Mr. Fife's views coincided with those of Mr. Carr." The inference to be drawn from the expression of such views by public men, in opposition to each other upon the hustings, is, that if there was no "Order in Council" establishing rights to leases, or pre-emptive rights to purchase, that the Colonial Legislature would

establish such rights. Mr. Fife has been returned, and may produce the new edition.

The incessant clamours of the Melbourne press misled the people, and especially the new arrivals at the gold fields, to look upon the preferable rights, justly conceded by law to the first occupiers, as unfair towards themselves. They were easily led to believe that they had every right which the Crown tenants had. They were left ignorant of the fact that the squatters provided two millions' worth of animal food for them. They can import flour cheaper than they can produce it; but they cannot import butcher's meat, without which they cannot well exist. It is therefore their interest to encourage the production of that essential article of diet as much as possible, and not to be misled by demagogues.

The press knew that it was palatable to the great bulk of the people, as well as to the land speculator, to cry down the Crown tenants as obstructive monopolists, and it pandered to their feelings in a mercenary spirit. The people knew not the legal nor the moral claims which the Crown tenants had, otherwise they would not have looked upon them with a jealous eye. Under such a state of things, *first brought about* by the obstacles thrown in the way by the Lieutenant-Governor's illegal refusal to grant the pre-emptive right; and, latterly, by the influx of people to the gold fields; it may be judicious to modify the waste lands act, so that provision may be made from the Crown lands for compensation for the abrogation of existing rights. But, in any modification that may be made, it will be well to bear in view, that, in a pastoral country like that of the greater part of Victoria, it is absolutely necessary that the lands in the pastoral districts be held in large blocks of say not less than eight sections, or 5120

acres each. The present mode of selling *not more* than 640 acres in one lot may suit the agricultural districts; but, for pastoral purposes, large blocks are absolutely essential. Practical experience has proved that small blocks are in a manner worthless for pastoral purposes; and the "Order in Council" wisely made a rule that no run should be less than sufficient to hold 4000 sheep. Even in the United Kingdom, where lands are dear and labour cheap, it is found requisite to have the grazing farms large in extent, and even to increase the size of the smaller agricultural farms.

On the 10th August last, according to public report, the Melbourne Chamber of Commerce adopted a Report, by a majority of 12 to 2, recommending compensation, by remission land orders, to be given to the squatters in lieu of their leases and pre-emptive right. (App. 58.) Such report, emanating from a commercial body, and from a chairman who has publicly declared himself in opposition to the pastoral interest, is of much *signification*. The chairman very candidly admitted "that the result of that inquiry was to stagger him, and he believed the rest of the committee." The Report condemns the procrastination of the late Lieutenant-Governor; and it severely censures the Duke of Newcastle for shrinking from the responsibility of deciding, and for writing such an evasive despatch.

The principle enunciated in the Report is sound in the abstract, but the *uniform* rate of compensation is practically wrong; because a short lease in the intermediate district, liable to be terminated at the end of every year, is not nearly so valuable as a long lease for a *fixed* term, with an *exclusive* right of purchase, in the unsettled district.

The rate suggested by the committee may be a fair

rate for indifferent runs in the intermediate, though not half enough for good runs in the unsettled districts.

It was not formerly the part of the Crown tenants to suggest any modification of the land regulations, to meet an *apparent* exigency; but it was certainly the part of the executive, before it invaded the rights of property, to make provision for the indemnification of the destruction of such rights; and now even, it is only those who have actually suffered direct losses, from the illegal sale of their runs, who have legal recourse against the authorities; though all have suffered, and all are suffering, from a want of security of fixed tenure. Those who have suffered directly, from the illegal sale of their runs, are sure to institute proceedings in defence of their rights; and, unless the Government abide by the law, or provide for the indemnification of those who suffer from a breach of the law, a state of anarchy will ensue, which will be detrimental to all the parties concerned, alike disgraceful to the Government, and injurious to the Colony at large. But if it is deemed desirable to take away such rights, and to grant an indemnity in lieu of them from the land fund, let the necessary arrangements be *finally completed by the Crown*, before the control of the management of the Crown lands is handed over to the local Legislature (as is justly proposed to be done under the new constitution); for however favourable the views of that body have hitherto been, relative to the claims of the pastoral interest, the formation of townships and agricultural settlements within the pastoral districts has destroyed the representation of that interest. It would therefore be most repugnant to the principles of British jurisprudence, and manifestly unjust, to refer the arbitration of such claims to a body interested, and principally constituted in hostile opposition

to the establishment of such claims; and, besides, it would never satisfy the claimants.

This long vexed question once settled, the Crown tenants could fraternise with the other classes, and all that rancour of class interests would soon be absorbed in a common interest, so essential to the peace and prosperity of the Colony.

The eternal principles of truth and justice, inherent in humanity, will undoubtedly, sooner or later, require that justice be done the injured pioneers of Australian wealth and civilisation; and Government will yet feel that it is wiser, and safer in the end, to follow out a direct course of justice, than to succumb to the dictation of a mercenary press, and so be carried downward in the dark polluted stream of base expediency.

If the Government wishes to maintain the pledged honour of the Crown—to respect the purity of justice—to uphold the power of the law—to protect the rights of property—and to prevent a state of anarchy in the colonies, it will immediately interpose its authority, and award that justice to the despoiled tenants of the Crown, which both their legal and moral claims entitle them, as loyal subjects, to demand.

From the evidence of the documents embodied in the Appendix, the writer assumes that he has fully demonstrated the following conclusions:—

1. The legality of the rights claimed by the Crown tenants.
2. The illegal infringement of such rights by the Government.
3. The impolicy and the injustice of infringing and of withholding the exercise of such rights.

4. The justice of compensating those tenants who have already suffered by the illegal sale of their runs.
5. The expediency of either modifying the law, to provide an indemnification for the abrogation of existing rights, or a strict adherence to the law in security of such rights.

Having demonstrated such facts, the writer confides in the justice and wisdom of the Goverment, in speedily redressing the grievances of a great and important interest, which are thus represented.

## HINTS UPON EMIGRATION.

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THE Australian Colonies are of the greatest importance, as an outlet for the surplus population of the mother country, and even of that of the whole of Europe. And as emigration may be diverted from these colonies, through the prevalence of erroneous impressions regarding the claims of the Crown tenants, it may be desirable, in order to completely remove such impressions, to extinguish such claims, and to throw the whole of the Crown lands open to the highest bidder, compensating, of course, the present occupants for the surrender of their rights: not that there is really any thing in the present system to prevent sufficient land being sold, but to get rid of all dissatisfaction, however unjust it may be, and to encourage emigration. It is the scarcity of labour, and not the scarcity of land, that keeps agriculture in the background; indeed, there is not one-twentieth of the land already sold under cultivation. There is an abundance of the finest land in the world, in the three colonies of N. S. Wales, Victoria, and South Australia; and Victoria, whether as regards pastures, agricultural soil, or gold deposits, is unquestionably the richest country of equal extent in the known world. Any delay or mismanagement of the development of such brilliant resources, is a loss to the British empire.

The climate is healthy, and well adapted for Europeans; and, with the exception of a few weeks of hot winds annually, it is on the whole very agreeable in the country districts; but in the city of Melbourne, from the want of sewerage, and the proximity of a large extent of low marshy ground, it is not so healthy, and young children suffer much from the miasmata, which drainage may remove: the country, on the contrary, is remarkably healthy. The clouds of dust whirling in the streets of Melbourne, during the hot months of summer, are most disagreeable to the eye; yet, strange to say, that organ is less subject to ophthalmia than it generally is in warm climates. A light frost frequently occurs in the winter months in Melbourne. Snow falls very seldom, and never lies long.

The writer has been often applied to for advice to intending emigrants; and, as many pitiful cases of unsuitable immigrants came under his notice in the Colonies, he considers it a charitable duty to point out the difficulties that lie in the way of some classes: and the advantages to others. For instance, those of the middle classes, with *young families under ten years of age*, either without capital or with a little capital, have no inducement to go to Australia. The high rates paid for house rent, fuel, water, provisions, &c. even without the luxury of servants, soon swallow up a little capital; indeed, it is better to be without capital than to place dependence upon a little capital. The man, again, without any capital, however respectable he may have been in his native country, must be prepared for immediate difficulties and disagreeables on landing: probably to break stones upon the public roads, at 10s. or 12s. per day, having his wife and helpless children cooped up in a small hovel, or huddled together under the shelter of a tent, without sufficient fuel or water, and,

perhaps, without proper food ; the youth of his children, if they exceed two or three in number, prevents him from being employed far up the country on sheep stations, where he would at least get sufficient food and shelter, and where, probably, his services would be appreciated. Letters of recommendation are worth very little. Again, young men of idle and unsettled habits cannot go to a worse place, as, ten to one, they will become more dissipated, from being able to spend more, from the receipt of high wages.

On the other hand, single men or women, or married couples with not more than three children under ten years of age, cannot fail of bettering their condition in life, if they are steady and industrious. But those who are most suitable, and who cannot well fail of speedily realising an independence, are families the parents of which have reached or passed middle age, with their children nearly grown up, that is, from 10 years and upwards. A steady man with his wife, and 3 or 4 boys above 12 years of age, can readily get employed upon a sheep station, at wages from £200 to £300 per annum, with board and lodging ; a careful boy of 12 being well able to shepherd a flock of sheep on a level open country. Such families are able to save nearly all their wages, and are thereby soon enabled to purchase a small farm ; and, from having labour within themselves, very soon reach a state of great independence.

The able-bodied labourer has a good field for his labour, either upon the roads or public works, at about 12s. per day, or at the gold-fields, where, if steady and industrious, he may calculate, on an average, of obtaining £1 worth of gold per day.

The skilful mechanic gets much higher wages, the rate of which fluctuates with the extent of building operations

in progress, now much reduced through commercial difficulties. The great glut of merchandise, blindly poured into Australia, has nominally damaged the reputation of it as a field for emigration; though really such commercial losses are a profit to the emigrant, who can get supplies and accommodation on reasonable terms now; and although building operations may be suspended in Melbourne for a temporary time, the railways and water works in progress, and the *average yield of gold*, will prevent wages from falling much; indeed, the emigrant's prospects are better than ever.

Provisions are much cheaper at Melbourne than at the gold fields, where the prices depend upon the state of the roads, and upon the rate of carriage. In summer, goods are carried from Melbourne to the gold fields for about £10 per ton; in winter the rate is about £40; it even reached £100 per ton before the roads were made. Butcher meat is about the same price both at Melbourne, Geelong, and the gold fields, recently about 9d. per lb. From the great glut of goods now in the Australian market, clothing must be obtainable on very reasonable terms.

New arrivals cannot expect such high wages at Melbourne or Geelong as are given up the country, because it is better for the employer to give a higher rate to men upon the ground, than to be at the expense and risk of carrying new arrivals up the country. The following quotation from the "Geelong Advertiser," of the 23d Sept. 1854, may be considered correct, and new arrivals may expect such rates at Melbourne or Geelong.

"AUSTRALIAN LABOUR MARKET.—GEELONG, Sept. 23.—Instead of an increasing demand for hands, as was anticipated from the advanced season of the year, engagements have been fewer than during the preceding week, and both the mechanic and the labourer now reluctantly admit

wages must inevitably fall, and the more reasonable consider that reduced wages, with diminished prices for rent and food, and more constant and certain employment, would be to their advantage. Wages are as under:—viz. Married couples for home stations, with rations, per annum, 80*l.* to 90*l.*; ditto, for out stations, ditto, 65*l.* to 75*l.*; ditto, with two flocks, ditto, 80*l.* to 100*l.*; shepherds, 40*l.* to 50*l.*; hut-keepers, 30*l.* to 40*l.*; married couples for hotels, 90*l.* to 100*l.*; ditto for private families—man as groom, woman as house-servant, with rations—80*l.* to 90*l.*; labourers on the roads and other works, 10*s.* to 13*s.* per day, without rations; carters for town, without rations, 3*l.* to 4*l.* per week; carters for ditto, with rations, 35*s.* to 50*s.* per week; ditto for roads, with rations, 2*l.* to 3*l.* per week; shearers, 1*l.* per 100, with rations; bullock drivers for the roads, with rations, 50*s.* to 3*l.* per week; ditto for stations, 30*s.* to 2*l.* per week; gardeners, with rations, 60*l.* to 80*l.* per annum; grooms, ditto, 70*l.* to 90*l.* ditto; farm servants, 20*s.* to 30*s.* per week; ploughmen, 30*s.* to 35*s.* per week; general useful station servants, 20*s.* to 25*s.* per week; bush carpenters, with rations, 2*l.* 10*s.* to 3*l.* per week; carpenters for town work, best hands, 20*s.* to 22*s.* 6*d.* per day, without rations; slaters and plasterers, 30*s.* to 35*s.* per day, good hands, ditto; men cooks for hotels, 2*l.* to 4*l.* per week, with rations; waiters for hotels, with rations, 1*l.* 10*s.* to 2*l.*; seamen, for the run to London, 30*l.* to 40*l.*; ditto, Madras, Singapore, Callao, Mauritius, 25*l.* to 30*l.*; coasting (A. B.) per month, 8*l.*; ditto (O. S.) ditto, 6*l.* 10*s.*; monthly wages to India, London, &c. 6*l.* to 7*l.* 10*s.*; bay labourers, with rations, 10*s.* to 13*s.* per day; female servants, thorough general servants, 25*l.* to 30*l.*; housemaids, 25*l.*; laundresses, 30*l.*; cooks, 30*l.* to 35*l.*; nursemaids, 18*l.* to 20*l.*—*Geelong Advertiser.*”

The winter is so mild that the live stock require no artificial feeding; and both sheep and cattle fatten on the natural herbage. The only demand for fodder is within the towns, and upon the thoroughfares, where working cattle and horses require to be kept.

Melbourne and Geelong are the best ports to disembark at, on account of the proximity of the gold fields and the public works in progress. And Victoria is unquestionably the best field for the emigrant, as wages are about 30 per cent. higher than in the neighbouring colonies of New

South Wales and South Australia, but where there is also a fine field for the emigrant, though far inferior to Victoria.

Western Australia is a poor miserable place, with a hungry sandy soil, ill adapted for either pasture or cultivation; and it is much to be regretted that a British community should be left to pine in such a place, when there are millions of acres of rich lands on the same continent lying waste for the lack of occupants. If punishment was the only object in transporting offenders there, it would certainly be attained with a vengeance. The emigrant will do well to avoid such a place, both on account of the poverty of the soil, and of its being a penal settlement.

The rate of labour in Victoria is regulated by the yield of the gold fields, though it is generally cheaper in winter than in summer. Hitherto the yield of gold has been, upon the whole, very steady in Victoria; and, from the great extent of auriferous ground already discovered, there is no risk of its being exhausted for many generations to come: besides, more discoveries are sure to follow. The writer, from his knowledge of the country, both in New South Wales and Victoria, is convinced, from the geological features of both colonies, that one tithe of the gold deposits in Australia are not yet discovered. And the writer, as the original discoverer of the Victorian gold fields, may be presumed to be somewhat of an authority upon that subject. His claim to the discovery was proved before a Select Committee of the Legislative Council of Victoria last session.

The emigrant, unless he has the means of supporting himself for a few months at the diggings, had better accept employment at once on landing. Let him avoid en-

cumbering himself with more things than he requires on the voyage.

In Victoria there is a first-rate field for the investment of capital, either in the purchase of land, of stock and stations, of bank stock, of mortgages, and in various other ways. Ten per cent. is considered a very moderate return, and, under judicious management, a much higher rate may be calculated on.

Fifteen years' practical experience in Australia has enabled the writer to offer these few observations, which he trusts may be useful to intending emigrants.



# APPENDIX.

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## PART I.

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### No. 1.

#### CROWN LAND (SALE.)

5 & 6 VICTORIA, c. 36. *An Act for regulating the sale of waste land belonging to the Crown in the Australian Colonies.* [22d June, 1842.]

WHEREAS it is expedient that an uniform system of disposing of the waste lands of the crown in the Australian Colonies should be established : Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that within the Australian Colonies the waste lands of the crown should be disposed of in the manner and according to the regulations hereinafter prescribed, and not otherwise.

II. And be it enacted, that the waste lands of the Crown in the Australian Colonies shall not, save as hereinafter is excepted, be conveyed or alienated by Her Majesty, or by any person or persons acting on the behalf or under the authority of Her Majesty, either in fee-simple or for any less estate or interest, unless such conveyance or alienation be made by way of sale, nor unless such sales be conducted in the manner and according to the regulations hereinafter prescribed.

III. Provided always, and be it enacted, That nothing in this Act contained shall extend or be construed to extend to prevent Her Majesty, or any person or persons acting on the behalf or under the authority of Her Majesty, from excepting from sale, and either reserving to Her Majesty, Her Heirs and Successors, or disposing of in such other manner as for the public interests may seem best, such lands as may be required for public roads or other internal communications, whether by land or water, or

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*for the use or benefit of the aboriginal inhabitants of the country, or for purposes of military defence, or as the sites of places of public worship, schools, or other public buildings, or as places for the interment of the dead, or places for the recreation and amusement of the inhabitants of any town or village, or as the sites of public quays or landing places on the sea coast or shores of navigable streams, or for any other purpose of public safety, convenience, health, or enjoyment; and provided also, that nothing in this Act contained shall extend or be construed to extend to prevent Her Majesty, or any person or persons acting on her behalf, or under the authority of Her Majesty, from fulfilling any promise or engagement made or hereafter to be made by or on the behalf of Her Majesty in favour of any military or naval settlers in the said Colonies respectively, in pursuance of any regulations made by Her Majesty's authority in favour or for the benefit of any such settlers.*

IV. And be it enacted, That save as hereinafter is excepted in reference to blocks of twenty thousand acres of land or upwards, no waste lands of the crown in any of the said Colonies shall be so conveyed or alienated as aforesaid until the same shall have been surveyed, and shall have been delineated in the public charts of such Colony, in such lots as shall be subsequently offered and put up for sale, which lots shall in no case, save as aforesaid, contain an area exceeding one superficial square mile.

V. And be it enacted, That, under and subject to the various provisions and regulations hereinafter contained, the Governor for the time being of each of the said Colonies is hereby authorised and required, in the name and on the behalf of Her Majesty, to convey and alienate in fee simple, or for any less estate or interest, to the purchaser or purchasers thereof, any waste lands of the Crown in any such Colony, which conveyances or alienations shall be made in such forms and with such solemnities as shall from time to time be prescribed by Her Majesty; and being so made, shall be valid and effectual in the law to transfer to and to vest in possession in any such purchaser or purchasers any such lands as aforesaid, for any such estate or interest as by any such conveyance as aforesaid shall be granted to him, her, or them.

VI. And be it enacted, That once at the least in each of the four usual quarters of the year, and on as many other occasions as to the Governor for the time being of any such Colony shall seem

meet, there shall be holden one or more public sales by auction of the waste lands of the Crown within such Colony; and that every such Governor shall, by proclamation or proclamations, to be from time to time by him for that purpose made in manner hereinafter mentioned, declare with all practical precision the times and the places at which such auctions will be holden, and what are the lands to be offered for sale at each of such auctions, and what are the upset prices at which they will be offered for sale; and it shall not be lawful for any such Governor to sell or cause to be sold any such lands, unless they shall have been specified as about to be offered for sale by such proclamation as aforesaid, issued at some time within three calendar months next preceding the actual sale thereof.

VII. And be it enacted, That in every such proclamation as aforesaid the lands specified therein as about to be offered for sale shall be distinguished into three separate classes, the first of which shall be described as town lots, the second of which shall be described as suburban lots, and the third of which shall be described as country lots; and within the first of the said classes shall be comprised all lands situate within the limits of any existing town to be in that behalf especially named and described by the Governor, or within any locality to be designated by the Governor as the site of any town to be thereon erected; and within the second of the said classes shall be comprised all lands situate within the distance of five miles from the nearest point of any existing or contemplated town, unless in any case the Governor for the time being of any such colony shall see fit to exclude any such last mentioned lands from the said class of suburban lots, on the ground that they will not in his judgment derive any increased value from their vicinity to any such town; and within the third of the said classes shall be comprised all lands not comprised within the said first and second classes: Provided, nevertheless, that nothing herein contained shall extend or be construed to extend to prevent the putting up for sale of lands of any one or more of the said classes apart from lands of both or either of the other classes.

VIII. And be it enacted, That none of the waste lands of the crown shall be sold at any such auction in any of the said Colonies unless the sum of one pound at the least for each acre of such land be then and there offered for the same, which sum of one pound per acre shall be the lowest upset price of any of the waste

lands of the crown in any of the said Colonies, but which lowest upset price shall be liable to be from time to time raised in any such Colony in manner hereinafter mentioned.

IX. And be it enacted, That it shall be lawful for the Governor of any such Colony, at his discretion, by any such proclamation or proclamations as aforesaid, to raise the lowest upset price of the waste lands of the Crown in any such Colony ; and it shall be lawful for Her Majesty, by any instructions addressed to any such Governor, under Her Majesty's Signet and Sign Manual, with the advice of Her Majesty's Privy Council, either to raise the lowest upset price of the waste lands of the crown in any such Colony, or to disallow and reduce back, either wholly or in part, any increase of the said upset price which, in exercise of the authority hereby vested in him, any such Governor may, in manner aforesaid, have made of the said upset price, by any such proclamation or proclamations as aforesaid : Provided always, that no such instructions reducing the lowest upset price of land, as raised by any such proclamation or proclamations, shall be so issued as aforesaid, by Her Majesty, after the lapse of six months from the receipt by one of Her Majesty's Principal Secretaries of State from such Governor of a transcript of any such proclamation : Provided also, that if such upset price be so reduced by Her Majesty as aforesaid, and if any person shall in the meanwhile have purchased of the Crown any lands, not being town or suburban lots or special lots, it shall be lawful for the Governor either to return to such person the difference between the lowest upset price named by the Governor and the amount to which such lowest upset price shall have been reduced by Her Majesty, or to grant to such person or persons lands equal in value to the said difference.

X. And be it enacted, That it shall not be competent to the Governor of any such Colony, nor, save as aforesaid, to Her Majesty, to reduce the amount to which, in manner aforesaid, the lowest upset price of lands within such Colony may at any time have been so increased by such Governor or by Her Majesty.

XI. And be it enacted, That in respect of any part not exceeding one tenth of the whole of the lands of the third class for the first time offered for sale at any such auction as aforesaid, it shall be lawful for any such Governor, by any such proclamation or proclamations as aforesaid, to name an upset price higher than the

lowest upset price of waste lands in the Colony, and such excepted lands of the third class shall be designated as special country lots ; and that in respect of any lot or lots consisting of lands either of the first or of the second classes, to be comprised in any such sales, it shall be lawful for the Governor for the time being to fix the upset price of any such lot or lots at any sum exceeding the lowest upset price of waste lands within the Colony in which the same may be situated, and from time to time to raise or lower, as to him may seem requisite for the public interests, the price of such lots, consisting of lands of the first or the second class, so always that such upset price shall never be less than the lowest upset price of waste lands within the said Colony.

XII. And be it enacted, That no land comprised in the said first or second classes shall be sold in any of the said Colonies otherwise than by public auction ; but that any lands comprised in the third of the said classes shall and may be sold by the Governor for the time being of the Colony, within which the same are situate, by private contract, if the same shall first have been put up to public auction in manner aforesaid, and shall not have been sold at such auction : Provided that no such land shall be sold by any such private contract for less than the upset price at which the same was last put up for sale by auction, or if any bidding above that price was made for the same at such last preceding auction, then at less than the amount of such bidding, after deducting the amount of any deposit that may have been paid thereon : Provided also, that if between any two successive sales by auction an increase shall, in manner aforesaid, have been made of the upset price of lands, no land affected by such increase shall subsequently be sold by private contract until after the same shall again have been put up to sale by auction at such increased upset price.

XIII. And be it enacted, That no waste lands of the crown shall be sold in any such Colony by any such private contract as aforesaid except for ready money, to be paid at the signing of such contract ; and that no waste lands of the crown shall be sold at any such public auction as aforesaid, unless on condition of paying at the time of the sale in ready money, a deposit, the amount of which shall be fixed by any such proclamation or proclamations as aforesaid, at not less than one tenth of the whole price, nor unless the purchaser or purchasers shall contract to pay the residue of

such price within one calendar month next after the time of such sale by auction, and shall further contract, that on failure of such payment the deposits shall be forfeited, and that the contract shall be thenceforward null and void.

XIV. And be it enacted, That by any proclamation or proclamations to be from time to time for that purpose issued by the Governor of any such Colony, in the manner hereinafter mentioned, it shall be lawful for him to divide such Colony, for the purposes hereinafter mentioned, into any number of territorial divisions not exceeding four ; and for the purposes and within the meaning of this present Act, but for no other purpose, each of such territorial divisions shall be considered as a distinct and separate colony, saving only that as regards the appropriation hereinafter directed of a certain portion of the proceeds of sales of land to the introduction of emigrants from the United Kingdom, it shall be sufficient that such emigrants be introduced into any part of the entire Colony, without reference to the territorial division in which such proceeds of sales may have accrued ; and provided always, that it shall be lawful for Her Majesty, by any instructions to be issued by Her Majesty in manner before mentioned, to disallow and annul any such proclamation or proclamations : Provided that such instructions be issued within six calendar months next after the receipt by one of Her Majesty's Principal Secretaries of State, from such Governor, of the transcript of such proclamation : Provided also, that such instructions shall take effect within the said Colony, upon the receipt thereof by the said Governor, and not before.

XV. And be it enacted, That if any person or persons shall offer to purchase from the Governor of any such Colony by private contract, any block of unsurveyed land, comprising twenty thousand acres or moré, and forming, as nearly as the natural landmarks of the country will admit, a parallelogram, of which no one side shall be more than twice the length of any other side, it shall be lawful for the Governor, by any such private contract, to effect any such sale, on such terms and conditions as to him shall seem meet, provided that such lands be not sold for less than the lowest upset price of lands per acre in the Colony in which the same may be situated, and provided that the purchaser or purchasers of any such lands shall not be entitled to any survey thereof, except so far as may be necessary to ascertain the external marks and bounds thereof.

XVI. And whereas it may be convenient, that means should be provided for the payment within the United Kingdom of the purchase money of waste lands of the Crown within the said Colonies; and whereas by a warrant under Her Majesty's sign manual, bearing date on the tenth day of January, one thousand eight hundred and forty, Her Majesty was pleased to appoint certain persons therein named to be, during Her Majesty's pleasure, commissioners in the United Kingdom, for the sale of the waste lands of the Crown in Her Majesty's Colonies, and for superintending the emigration of Her Majesty's subjects to such Colonies; Be it therefore enacted, That if any person or persons shall pay, for the purchase of waste lands of the crown in any of Her Majesty's Australian Colonies, any sum or sums of money to the commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain or Ireland, or to any person or persons to be appointed by the said commissioners of Her Majesty's Treasury, or any three of them, to receive the same, the said commissioners of Colonial lands and emigration for the time being, are hereby authorised and required, subject to such rules as shall be prescribed for their guidance in that respect by the commissioners of Her Majesty's Treasury, to grant, under their hands and seal of office, certificates to any such purchaser or purchasers of the amount of any such payments, which certificates shall, on production thereof to the Governor for the time being of any such Colony, be received by him as equivalent to the amount of money for which the same shall respectively be given, so far and only so far as the same may be tendered to such Government in payment for the price of any waste lands of the crown to be there purchased, either at public auction or by private contract, in the manner and subject to the regulations by this present Act prescribed in respect of such purchasers.

XVII. And be it enacted, That nothing herein contained shall extend or be construed to extend to prevent the Governor of any of the said Colonies from granting to any person or persons a licence for the occupation, for any time not exceeding 12 calendar months from the date thereof, of any waste lands of the Crown in any such Colony, or a licence for felling, removing, and selling the timber growing on any such lands; and that no such lands shall be sold until after the expiration of the licence for the occupation of the same.

XVIII. And be it enacted, That all charges which shall be incurred in any of the Australian Colonies for the expense of the survey and management of the waste lands of the Crown therein, or for effecting such sales by auction, or by private contract, or otherwise in carrying into effect the provisions of this present Act, within any such Colony, shall, in the first instance, be chargeable upon and defrayed from the proceeds of sales of waste lands, unless provision shall otherwise be made for defraying such charges, by any law or ordinance to be enacted by the local legislature of any such Colony.

XIX. And be it enacted, That subject to the charge above mentioned, the gross proceeds of the sales of the waste lands of the Crown, in each of the said Colonies, shall be appropriated and applied to the public service of the said Colonies respectively, in such manner as Her Majesty, or the commissioners of Her Majesty's Treasury, or any three of them, shall from time to time direct: Provided always, that one equal half part at least of such gross proceeds shall be, and the same is hereby appropriated, towards defraying the expense of the removal from the United Kingdom to the Colony wherein such revenue accrued of emigrants not possessing the means of defraying the expense of their own emigration thither, which money shall be expended by the commissioners of Her Majcsty's Treasury, or by such person or persons as shall be authorised by them to expend the same, but subject to such regulations regarding the selection of emigrants, the means to be provided for their conveyance, and their superintendence during the voyage to the Colony to which they are destined, and for their reception and settlement in that Colony, as shall from time to time be prescribed by Her Majesty in Privy Council, or through one of Her Majesty's Principal Secretaries of State, to the Governor of such respective Colonies, and to the Commissioners for the time being of Colonial lands and emigration.

XX. Provided always and be it enacted, That nothing herein contained shall affect or be construed to affect any contract, or to prevent the fulfilment of any promise or engagement, made by or on the behalf of Her Majesty, with respect to any lands situate in any of the said Colonies, in cases where such contracts, promises, or engagements, shall have been lawfully made before the time at which this Act shall take effect in any such Colony.

XXI. And be it enacted, That this Act shall take effect and have the force of law in each of the Australian Colonies, from the day of the receipt of a copy thereof by the Governor of such Colony, which day such Governor shall certify and make known to the inhabitants of such Colony by a proclamation, to be by him for that purpose forthwith issued.

XXII. And be it enacted, That the words Australian Colonies, as employed in this Act, are intended and described the Colonies of New South Wales, Van Dieman's Land, South Australia, and Western Australia, and New Zealand, with their respective dependencies, as such Colonies are now or shall hereafter be defined and limited, and also any other Colonies which may hereafter be established, within any of the existing limits of the said five Colonies, unless it shall in any case seem fit to Her Majesty, by any instrument under the Great Seal by which any such new Colony may be founded, to postpone, either for any period to be therein limited, or indefinitely, as to Her Majesty shall seem meet, the time at which this Act shall take effect within any such new Colony, in which case this Act shall take effect therein from the time to be so limited by such commission, and not before.

XXIII. And be it enacted, That by the word "Governor," as employed in the present Act, is intended and described the person who for the time being shall be lawfully administering the Government of any of the said Colonies respectively; and that the several "Proclamations" which the Governors of the said respective Colonies are hereby authorised to issue, shall be so issued by him, under the public seal of the Colony, and shall be made public in the most authentic and formal manner in use in any such Colony; and that by the words "Waste Lands" of the Crown, as used in the present Act, are intended and described any lands situate therein, and which now are, or shall hereafter be vested in Her Majesty, Her Heirs and Successors, and which have not been already granted or lawfully contracted to be granted to any person or persons in fee-simple, or for an estate of freehold, or for a term of years, and which have not been dedicated and set apart for some public use.

XXIV. And be it enacted, That this Act may be altered or amended during the present session of Parliament.

## No. 2.

## CROWN LANDS (OCCUPATION.)

11 VICTORIA, No 18. *An Act to authorise, for a limited time, an assessment upon Stock pastured beyond, the Settled Districts of New South Wales.*  
 [Assented to, 17th September, 1847.]

WHEREAS it is necessary to make provision for the protection and good government of all persons residing beyond the Settled Districts of the Colony of New South Wales, and by reason thereof it is expedient that an assessment should be raised and levied upon all stock pastured beyond the said Settled Districts : Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That in each and every year, there shall be levied and paid upon and in respect of the Stock of every person pasturing or keeping the same, upon any lands situate beyond the Settled Districts of the said Colony, as the same now are, or hereafter may be, defined, the assessment following, that is to say :—for every sheep the sum of one halfpenny, for every head of cattle, the sum of one penny halfpenny, and for every horse the sum of threepence : which assessments respectively shall be paid by the person assessed, before the first day of April in each year, at the office of the Colonial Treasurer in Sydney, or Sub-Treasurer at Melbourne, or to such other officer or officers, or at such other place or places, as shall be appointed in that behalf, by the Governor for the time being.

II. And be it enacted, that every person pasturing or keeping stock as aforesaid, shall make, or cause to be made, to the Commissioner of the district wherein the said stock is pastured, a Return, on the first day of January, or within fourteen days thereafter, in each and every year, according to the form contained in the Schedule hereunto annexed, marked A, of all sheep, cattle, and horses kept and pastured by him, as aforesaid ; and if any such person shall fail or neglect to make, or cause to be made, such Return at the time so appointed, or shall omit to deposit the same with the said Commissioner, in manner

hereby required, he shall, on conviction before any two or more Justices of the Peace, forfeit and pay for every such offence, a sum not less than forty shillings, nor exceeding fifty pounds.

III. And be it enacted, That after the first day of March in each year, it shall and may be lawful for the Commissioner and his assistants in each and every district (but subject to such directions as the Governor may think proper to give in any case) to seize and drive to the nearest or most convenient pound all cattle and horses pasturing as aforesaid, whereof a Return shall not by that time have been made by the person keeping or pasturing the same, in conformity with the provisions in that behalf hereinbefore contained, and the said cattle and horses to sell and dispose of at such pound, according to the ordinary course of sales of cattle and horses impounded for trespasses, unless, in the meantime, the owner thereof shall have claimed the same, and shall pay, by way of penalty, to the said Commissioner or poundkeeper, the sum of two shillings and sixpence for every head of such cattle and horses, together with the expenses chargeable thereon for poundage and food, which penalty and expenses the owner of such cattle and horses shall be liable to pay: Provided always, that upon such claim being made by a person who shall satisfy the said Commissioner or poundkeeper that he is the lawful owner of any such cattle and horses so impounded, and upon such payment as last aforesaid, the said cattle and horses shall be restored to such owner: And provided further that all moneys realised by any such sale as hereby authorised, and all payments made as aforesaid, shall be forthwith transmitted by or through the said Commissioner to the Colonial Treasurer at Sydney, or the Sub-Treasurer at Melbourne, or to such other officer as may in that behalf be appointed by the Governor, and the surplus realised by any such sale as aforesaid, over and above the amount of such penalty as last aforesaid, and the expenses aforesaid, shall be paid to the owner of any such cattle and horses so sold, upon a certificate from the said Commissioner of his being such owner.

IV. And be it enacted, That the person making such Return as aforesaid, shall verify the same by a declaration in the form or to the effect prescribed in the said Schedule, (which declaration any Justice of the Peace is hereby empowered to administer,) that the several matters and things contained in such Return are

true, to the best of his knowledge and belief; and if any person shall wilfully make therein any false statement as to any material particular, he shall be deemed guilty of a misdemeanor, and, being convicted thereof, shall be liable, at the discretion of the Court, to fine and imprisonment, or either.

V. And be it enacted, That the several Commissioners shall, at the beginning of each and every year, make an assessment on the stock pastured within their respective districts, and shall on or before the first day of February then next ensuing, make a Return thereof to the said Colonial Treasurer or Sub-Treasurer or other person appointed as aforesaid, in the form, and containing the several particulars, set forth in the Schedule to this Act annexed, marked with the letter B, according to which Return the assessment, hereinbefore mentioned, shall, upon notice as hereinafter provided, be due and payable as aforesaid, by the persons therein assessed, except in so far as the same may be affected by any order made on appeal, under the provisions hereinafter contained.

VI. And be it enacted, That the said several Commissioners shall, not less than one calendar month previous to the time hereinbefore appointed for the payment of the said assessment, cause a notice in writing, in the form contained in the Schedule hereunto annexed marked C, to be served upon each person assessed, or to be left at the residence of such person (if within the district), or with the superintendent or person having the charge of his stock (if the owner thereof shall not reside within the district), apprising him of the amount of the assessment with which he is liable, and requiring him to pay the said amount at the office of the said Colonial Treasurer, or of the said Sub-Treasurer, or other place appointed as aforesaid, before the first day of April next ensuing.

VII. And be it enacted, That any person assessed as aforesaid, who shall consider himself aggrieved by such assessment, may appeal to the nearest court of Petty Sessions: Provided that within ten days after the service of the said notice of assessment, the person assessed, or some one on his behalf, shall give to the said Commissioner a notice, in writing, of his intention to make such appeal, upon some day to be therein mentioned, not later than fourteen days after the date of such last mentioned notice; and the Justices sitting in Petty Sessions shall hear and

determine the matter of the said appeal in a summary way, and shall make such order therein as to them shall seem meet, according to the true intent and meaning of this Act; and in case of the dismissal of the appeal, or the affirmance of the said assessment, wholly or in part, or in case the party assessed, or some person on his behalf, shall not appear to prosecute the appeal, the Court shall order and adjudge the person so assessed to pay, within ten days, the amount of such assessment, or of such part thereof as they shall have determined to be payable, into the office of the said Colonial Treasurer or Sub-Treasurer, (or other place appointed as aforesaid,) and also such costs and expenses as may be awarded to the said Commissioner by the said Court; and if such assessment, costs, and expenses be not paid within such time, the said Court shall and may issue a warrant to levy the amount thereof by a distress and sale of a sufficient part of the stock, in respect of which such assessment shall have been made as aforesaid, and the surplus, if any, after payment of such assessment, costs, and expenses, shall be paid to the owner of such stock.

VIII. And be it enacted, That in case any person liable to pay any such assessment as aforesaid, or in case any person so adjudged to be liable to payment of the said assessment, or any part thereof, upon appeal or notice of appeal as aforesaid, shall refuse or neglect to pay the same upon the day appointed by such notice, or within the time appointed in cases of appeal as aforesaid, as the case may be, it shall and may be lawful for the said Colonial Treasurer, or Sub-Treasurer at Melbourne, or other person appointed by the Governor in that behalf, and he is hereby required forthwith, after the expiration of one month from the day or time so appointed, to issue a warrant, under his hand, to the Commissioner in whose district any person so refusing or neglecting to pay, as aforesaid, shall reside, directing the said Commissioner and his assistants to levy the amount which such person is so liable to pay, as aforesaid, together with an additional sum, equal to one-fifth part of that for which he is so liable, by way of penalty for such refusal or neglect, by a distress of a sufficient part of the stock, in respect of which the assessment shall have been made as aforesaid; and such Commissioner and his assistants to whom such warrant shall be so directed, are hereby authorised, under and by virtue thereof, to distrain, take, and drive to the

nearest or most convenient pound, such and so many of the stock of the party in said warrant mentioned, as shall be sufficient (when sold) to pay the amount of such assessment and penalty, and the costs and expenses of making such distress, and the payment of the maintenance of such stock, till sold; and the said stock (or a sufficient part thereof) to sell and dispose of at such pound, according to the ordinary course of sales of stock impounded for trespasses (unless previously thereto the said assessment, penalty, costs, and expenses shall be paid); and the proceeds thereof shall be applied to the payment of the assessment, penalty, costs, and expenses aforesaid, and the surplus (if any) shall be paid to the owner or superintendent of the said stock: Provided, however, that when such warrant shall be so issued as aforesaid, in case the amount of the assessment and penalty therein mentioned, shall be tendered to the person charged with the execution of such warrant, then and in such case the said person shall and he is hereby authorised to accept and receive the said amount, and to give a receipt for the money so received, and to refrain from making and executing the said distress.

IX. And be it enacted, That all penalties, fines, and forfeitures, incurred or imposed under this Act, shall and may be sued for and recovered in a summary way, before any one or more Justice or Justices of the Peace, under and according to the provisions of an Act made and passed by the Governor of New South Wales, with the advice of the Legislative Council thereof, in the fifth year of the reign of His late Majesty King William the Fourth, intituled, *An Act to regulate summary proceedings before Justices of the Peace.*

X. And for the protection of persons acting in execution of this Act: Be it enacted that all actions for anything done under this Act, shall be commenced within six calendar months after the fact was committed, and not otherwise; and notice in writing of such action, and the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and in every such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money

shall have been paid into Court, after such action brought, by or on behalf of the defendant, together with costs incurred up to that time; and if a verdict shall pass for the defendant, or the plaintiff become nonsuited, or discontinue such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases.

XI. And be it enacted, That all sums of money payable under and by virtue of this Act, shall be paid to Her Majesty, Her Heirs and Successors, for the maintenance of a Police force and other local purposes beyond the said settled districts, and shall be applied thereto, in such manner as may from time to time be directed by any Acts to be passed by the Governor and Legislative Council of the said Colony.

XII. And be it enacted, That no order, judgment, or other proceeding made touching and concerning any of the matters aforesaid, or touching and concerning the conviction of any offender against this Act, shall be quashed or vacated for want of form only, or be removed or removable by *certiorari*, or by any writ or process whatsoever, into Her Majesty's Supreme Court of New South Wales.

XIII. And be it enacted, That all prosecutions, suits, actions, informations, or complaints, to be brought under or by virtue of this Act, or upon or by reason of the breach of any of the provisions thereof, shall and may be brought by any Commissioner for and on behalf of Her Majesty, Her Heirs, and Successors; but nevertheless such Commissioner shall and may be admitted to give evidence in or upon any such prosecution, suit, action, information, or complaint; and that upon any proceeding before Justices of the Peace under this Act, it shall not be necessary to have a formal information, but it shall be sufficient that the cause of complaint or proceeding shall be stated with reasonable distinctness, by affidavit or deposition.

XIV. And be it enacted, That no prosecution, suit, or complaint, shall be brought under or by virtue of this Act, by reason of the breach of any of the provisions thereof, after the lapse of twelve calendar months from the occurrence of the matter or thing to which such prosecution, suit, or complaint may relate: Provided nevertheless, that nothing herein contained shall be

deemed to extend to any information or prosecution for the wilfully making and subscribing any false declaration.

XV. And be it enacted, That in the construction of this Act the term "Commissioner" shall be deemed and taken to mean a Commissioner of Crown Lands appointed by the Governor for the time being; and the term "District" shall be deemed and taken to mean the limits within which a Commissioner of Crown Lands has been, or may hereafter be appointed to act; and the term "stock" shall be deemed and taken to mean and include sheep, cattle, and horses; and the word "sheep," when specifically used in this Act, shall be deemed and taken to mean and to include rams, ewes, wethers, and lambs; and the word "cattle," when specifically used in this Act, shall mean and include bulls, cows, oxen, heifers, steers, and calves; and the word "horses," when specifically used in this Act, shall mean and include horses, mares, geldings, colts, and fillies; and unless there be something in the subject or context repugnant to such construction, every word importing the singular number or the masculine gender only, shall be understood to include, and shall be applied to several persons, matters, or things, as well as one person, matter, or thing, and females as well as males respectively.

XVI. And be it enacted, That this Act shall commence from and after the 31st day of December now next ensuing, and shall thenceforth continue in full force and effect, for a period of five years and no longer.

CHS. A. FITZ ROY, GOVERNOR.

## SCHEDULES REFERRED TO.

A.

First day of January, 18 .

RETURN of Live Stock kept and pastured by Mr. , in  
 the District of , beyond the Settled Districts of the  
 Colony, rendered in conformity with the provisions of the Act of the  
 Governor and Council, Victoria, No. .

STATION.	Person Superintending.	Estimated Extent of Run.	Stock on Station belonging to, or in charge of, Mr.		
			Horses, and how Branded.	Cattle, and how Branded.	Sheep, and how Marked.

I, A. B., do solemnly declare that, to the best of my knowledge and belief,  
 the foregoing is a true and faithful account of all sheep, horses, and  
 cattle of every kind kept or pastured by me, or under my charge,  
 on the several stations above mentioned, within the District of  
     ; and I make this declaration by virtue of the Act of  
 the Governor and Council of New South Wales, Victoria, No.

A. B.  
Proprietor or Superintendent  
(as the case may be.)

Declared before me, at  
this                  day of                  , 18 . }

J. P.

B                          First day of  
 with a Statement of the Amount of Assessment chargeable thereon,  
 YEARLY RETURN of LIVE STOCK in the District of Victoria, No.  
 in accordance with the provisions of the Act of the Governor and Council,

STATIONS OR RUNS.	Persons Assessed.		Estimated Extent of each Run.	Stock at each Station.		Amount of Assessment.	TOTAL.
	Persons Superintending.	Licensed Occupants.		Horses, three-pence per head.	Cattle, three half- pence per head.		

Signature of Commissioner.

C.

*District of*

No.

.. | ..

*Commissioner of Crown Lands Office,*  
, 18 .

The Amount with which you are assessed for the year from first January to thirty-first December, 18 , under the provisions of the Act of the Governor and Council, Victoria, No. , on the undermentioned Stock pastured by you in this District, is as follows, viz. :

	£	s.	d.
Horses .. .. .. at 3d. per head			
Head of Cattle.... .. .. at 1½d. per head			
Sheep .. .. .. at ½d. per head			

which said sum of pounds, shillings, and pence, you are hereby required to pay at the Office of the Honourable the Colonial Treasurer, in Sydney, (*or at \_\_\_\_\_, as the case may be,*) before the first day of April next.

Or if you consider yourself as having any just cause for appealing against the said assessment, you will please to observe that notice of such appeal must be lodged with me within ten days from the date of the delivery of this notice, in the manner prescribed by the said Act. As witness my hand at , this day of , 18 .

*Commissioner of Crown Lands.*To \_\_\_\_\_ }  
\_\_\_\_\_  
\_\_\_\_\_

## No. 3.

9 & 10 VICTORIA, c. 104. *An Act to Amend an Act for regulating the Sale of Waste Land belonging to the Crown in the Australian Colonies, and to make further Provision for the Management thereof.* [28th August, 1816.]

WHEREAS it is expedient to make further Regulations respecting the Occupation of the Waste Lands belonging to the Crown in the Colonies of *New South Wales, South Australia, and Western Australia*, and for that purpose to repeal so much of an Act passed in the Session of Parliament holden in the fifth and sixth year of her Majesty's Reign, intituled *An Act for regulating the Sale of Waste Lands belonging to the Crown in the Australian Colonies*, as would prevent such Regulations from taking effect :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That it shall and may be lawful for Her Majesty to demise for any term of years not exceeding fourteen, to any person or persons, any Waste Lands of the Crown in the Colonies of *New South Wales, South Australia, and Western Australia*, or to grant to any person or persons a licence for the occupation, for any term of years not exceeding fourteen, of any such Waste Lands, and to reserve upon such demise or licence any such rent or pecuniary or other service, and to insert therein such conditions and clauses of forfeiture, as shall in manner hereinafter mentioned be prescribed and authorised, anything in the said recited Act to the contrary in anywise notwithstanding: Provided always, that every such demise or licence shall be made or granted subject to the rules and regulations hereinafter provided for.

II. And be it enacted, That the rent or pecuniary service so reserved on any such demise or licence as aforesaid, shall be applicable to such and the same purposes only, and shall be applied in such and the same manner, as the sums produced by the sale of lands effected under the authority and in pursuance of the said recited Act.

III. And whereas it may be necessary that effectual provision should be made for protecting such Waste Lands as aforesaid from being occupied without authority, and also for dispossessing any person in the occupation of any such Waste Lands as aforesaid, in case of the forfeiture of any such demise or licence, or in case of the breach or non-performance of the conditions thereof, or in case of the holding over by any such persons or person after the expiration of any such demise or licence, or after the end of the term for which the same may have been granted or made: Be it enacted, That on information in writing for that purpose preferred by the Governor for the time being of any such Colony as aforesaid, or by any person authorised by any such Governor on that behalf, to any Justice of the Peace acting in and for any of the Colonies aforesaid, or in and for any county or other district thereof, setting forth that any person or persons is or are in the unlawful occupation of any of the Waste Lands of the Crown in any such Colony, or is or are in the occupation of any

such lands in virtue or under colour of any such demise or licence as aforesaid, although such demise or licence had been forfeited, or although the conditions thereof had been broken or unfulfilled, or although such demise or licence had expired, or although the term for which the same had been granted or made had come to an end, it shall be the duty of such Justice to issue his summons for the appearance before any two Justices of the Peace, at a place and a time therein to be specified, of the person or persons against whom any such complaint shall be so made, and at the time and place so to be specified such two Justices (on the appearance of the person or persons charged, or on due proof of the service on him, her, or them, or at his, her, or their usual place of abode, of any such summons,) shall proceed to hear and inquire of the truth of the matter and things which may be alleged in any such information, and on being satisfied of the truth thereof, either by the admission of the person or persons charged, or on other good and sufficient evidence, the said Justices shall issue under their hand a warrant, addressed to the Sheriff or Deputy-Sheriff, or Commissioner, or other officer of the Colony or District, acting for or on behalf of Her Majesty, commanding and requiring him forthwith to dispossess and remove any such person or persons from any such Waste Lands of the Crown as aforesaid, and to take possession of the same for and on behalf of Her Majesty; and it shall be the duty of any such Sheriff, Deputy-Sheriff, Commissioner, or other such Officer as aforesaid, to carry such warrant forthwith into execution according to the tenor and exigency thereof: Provided always, that nothing hereinbefore contained shall extend to any person having occupied Waste Lands within the boundary of location without interruption for the space of twenty years next before the passing of this Act.

IV. And be it enacted, That from and after the day when this Act shall come into effect in the manner hereinafter mentioned, any person, unless claiming under a sale or demise from Her Majesty, or from some person acting in the name and on behalf of Her Majesty, who shall be found occupying any Waste Lands of the Crown in any of the Colonies aforesaid, either by residing or by erecting any hut or building thereon, or by clearing, inclosing, or cultivating any part thereof, or who shall depasture any cattle thereon, and who shall not previously have obtained

a licence from the said Governor for the occupation of such lands, or who shall occupy or depasture as aforesaid after such licence shall have been determined by forfeiture or otherwise, shall be liable on conviction thereof to the penalties following; That is to say, for the first offence a sum not exceeding ten pounds, for the second offence a sum not exceeding twenty pounds nor less than ten pounds, and for the third or any subsequent offence a sum not exceeding fifty pounds nor less than twenty pounds: Provided always, that no information shall be laid or brought for any second or subsequent offence until the expiration of fourteen clear days from the date of the previous conviction.

V. And be it enacted, That the penalties hereinbefore imposed shall be recovered in a summary way before any one or more Justice or Justices of the Peace, upon the information or complaint on oath of the Governor for the time being of any such Colony as aforesaid, or of any person authorised by any such Governor on that behalf.

VI. And whereas it may be expedient that various rules and regulations should be made respecting the more effectually making demises or licences for the term aforesaid of any such Waste Lands as aforesaid, and respecting the reservation on such demises or licences of any such rents or other pecuniary services, and respecting the insertion therein of such conditions and clauses of forfeiture as aforesaid, and respecting the division of the said Colonies into districts, within which alone such demises or licences may be made to take effect, and respecting the renewal of any such demises or licences, and respecting the conflicting claims of different persons to obtain any such demise or licence, and respecting any right of pre-emption which it may be proper to give to the holders of any such demise or licence, and respecting the forfeiture of any such demises or licences on the conviction of any holders thereof of certain offences in any such Colony, and respecting any other matters and things which may be requisite, either for carrying into more complete effect the occupation in manner aforesaid of such Waste Lands as aforesaid, or for preventing the abuses incident thereto: Be it enacted, That it shall be lawful for Her Majesty, by any Order or Orders in Council, to make and establish all such rules and regulations as to Her Majesty shall seem meet for the purposes aforesaid,

or for any of them, and any such rules and regulations again to repeal, renew, alter, and amend, and that all such Orders in Council shall have the force and effect of Law in the Colonies aforesaid: *Provided always, that nothing herein contained shall be construed to authorise the sale of any Waste Land in the said Colonies, otherwise than in conformity with the provisions of the said Act, except to persons who shall be in actual occupation thereof under such demise or licence as aforesaid,* or to authorise the sale of any such lands for a lower price than the minimum price at that time established therein by the authority of the said recited Act: Provided also, that all such Orders in Council shall be laid before Parliament within one month from the day of the date thereof respectively, if Parliament shall then be in Session, or if not, then within one month next after the commencement of the then next ensuing Session of Parliament, and that no such Order, repealing, renewing, altering, or amending any such former Order, shall be of any force or effect till the lapse of six months next after such repealing, renewing, altering, or amending Order shall have been so laid before Parliament; and that all such Orders in Council shall be published forthwith in the *London Gazette*.

VII. And for the protection of persons acting in execution of this Act: Be it enacted, That all actions or other proceedings for anything done under this Act shall be commenced within six calendar months after the matter complained of was committed, and not otherwise; and notice in writing of such action, and the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and in every such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action was brought, or if a sufficient sum of money shall have been paid into Court after such action brought by or on behalf of the defendant, together with costs incurred up to that time; and if a verdict shall pass for the defendant or the plaintiff become nonsuited, or discontinue such action after issue joined, or if, upon demurrer, or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full cost, as between attorney and client, and have the like remedy for the same as

any defendant hath by law in other cases; and although a verdict shall be given for the plaintiff in such action, such plaintiff shall not have costs against the defendant, unless the judge before whom the trial shall be shall certify his approbation of the action, and of the verdict obtained thereon.

VIII. And be it enacted, That no order, judgment, or other proceeding made touching or concerning the matters aforesaid, or touching and concerning the conviction of any offender or offenders against this Act, shall be quashed or vacated for want of form only, or be removed or removable by *certiorari*, or any writ or process whatsoever, into any superior Court of Jurisdiction in any such Colony.

IX. And be it enacted, That the word "Governor," as employed in this Act, is intended to describe the officer for the time being administering the Government of any of the Colonies aforesaid; and the words "Waste Lands of the Crown," as employed in this Act, are intended to describe any lands in the said Colonies, whether within or without the limits allotted to settlers for location, and which now are, or hereafter shall be vested in Her Majesty, Her Heirs, and Successors, and which have not been already granted, or lawfully contracted to be granted, by Her Majesty, Her Heirs, and Successors, to any other person or persons in fee simple, and which have not been dedicated or set apart for some public use.

X. And be it enacted, That it shall and may be lawful for Her Majesty, by any such order in Council as aforesaid, to delegate to the Governor of any of the Colonies aforesaid (on such conditions as Her Majesty shall see fit to impose) all or any of the powers hereby vested in Her Majesty, save only so far as respects the powers so to be exercised by Her Majesty as aforesaid, by and with the advice of her Privy Council.

XI. And be it enacted, That from and after the passing of this Act, the said recited Act shall not apply to land situate in the Colony of *New Zealand*: Provided nevertheless, that nothing herein contained shall extend to invalidate any act done in the said Colony, in pursuance of the said recited Act, before or within one month after the passing of this Act shall have been made known by Proclamation by the Governor of the said Colony to the inhabitants thereof.

XII. And be it enacted, That the said recited Act, so far as it is

repugnant to this present Act or would prevent the execution thereof, shall be, and the same is hereby repealed.

XIII. And be it enacted, That this Act, shall take effect and have the force of law in each of the said Colonies of New South Wales, Southern Australia, and Western Australia, from and after a day to be specified by the Governor of each of such Colonies in some proclamation to be issued by him for that purpose.

### No. 4.

At the Court at Osborne House, Isle of Wight, the 9th day of March, 1847.

PRESENT:—

THE QUEEN'S MOST EXCELLENT MAJESTY,  
HIS ROYAL HIGHNESS PRINCE ALBERT,

LORD PRESIDENT,  
LORD PRIVY SEAL,  
LORD CHAMBERLAIN,  
EARL OF AUCKLAND,

VISCOUNT PALMERSTON,  
BISHOP OF LONDON,  
LORD CAMPBELL.

WHEREAS by an Act passed in the present year of Her Majesty, intituled, *An Act to amend an Act for regulating the Sale of Waste Land belonging to the Crown in the Australian Colonies, and to make further provision for the management thereof*, after reciting that it might be expedient that various rules and regulations should be made, respecting the more effectually making demises or licences, for any term of years not exceeding fourteen, of any such Waste Lands as therein mentioned, and respecting the reservation on such demises or licences, or any such rents or other pecuniary services, and respecting the insertion therein of such conditions and clauses of forfeiture as are therein mentioned, and respecting the division of the said Colonies into districts, within which alone such demises or licences might be made to take effect, and respecting the renewal of any such demises or licences, and respecting the conflicting claims of different persons to obtain any such demise or licence, and respecting any right of pre-emption which it might be proper to give to the holders of any such demise or licence, and respecting the forfeiture of any such demises or licences, on the conviction of any holders thereof, of

certain offences in any such Colony, and respecting any other matters and things which might be requisite, either for carrying into more complete effect the occupation, in manner therein mentioned, of such Waste Lands as aforesaid, or for preventing the abuses incident thereto; it was enacted, that it should be lawful for Her Majesty, by any Order in Council, to make and establish all such rules and regulations as to Her Majesty should seem meet for the purposes aforesaid, or for any of them, and any such rules and regulations, again to repeal, renew, alter, and amend; and that all such orders in Council should have the force and effect of law in the Colonies aforesaid: and whereas it is expedient that the rules and regulations hereinafter contained should now be made and established, for regulating the occupation of the Waste Lands of the Crown in the Colony of New South Wales, it is hereby ordered by the Queen's most Excellent Majesty, by and with the advice of the Privy Council, that within the said Colony of New South Wales, the rules and regulations comprised in the following chapters shall henceforth be observed, and have the force and effect of law.

#### CHAPTER I.

##### AS TO THE DIVISION OF THE LANDS IN NEW SOUTH WALES.

SECT. 1.—The lands in the Colony of New South Wales shall, for the purposes of the present Order, be considered as divided into three classes, and be dealt with accordingly, as they may be situated in districts to be denominated respectively as the settled, the intermediate, and the unsettled districts.

SECT. 2.—The settled districts of the Colony shall comprehend—

First—The nineteen contiguous counties, the boundaries of which were settled and proclaimed before the 1st January, 1838.

Second—The counties or reputed counties of Macquarie and Stanley.

Third—The lands which may be within a distance of twenty-five miles, to be measured or reckoned from any point of the corporate limits of the Town of Melbourne, in the county of Bourke.

Fourth—The lands which may be within the distance of fifteen

miles from any point of the outward limits of the Town of Geelong, in the County of Grant.

Fifth—The lands which may lie within the distance of ten miles from any point of the outward limits of each of the following towns or townships, viz. :

Portland, in the County of Normanby ; Alberton, in the district of Gipps Land ; Eden, in the County of Auckland ; Bathurst, in the County of Roxburgh ; Wellington, in the County of the same name.

The town which has been established at the head of the navigation of the River Clarence.

The Town of Macquarie, in the County of Macquarie.

The Town of Ipswich, in the County of Stanley.

Sixth—The lands which may lie within the distance of three miles from any part of the sea, throughout the extent of the Colony, measured in a straight line.

Seventh—The lands which may lie within the distance of two miles from either of the two opposite banks of any of the following rivers, viz. :—

The Glenelg, from a point to be fixed by the Governor, not lower than where the Glenelg receives the waters of the Crawford, nor higher than where it receives the waters of the Wannon.

The Clarence, from a point to be fixed by the Governor, at a distance not less than ten miles above the Government township, at the head of the navigation, and not less than fifty miles from the sea, measured in a straight line.

The river now known by the name of the Richmond, from a point to be fixed by the Governor, at a distance not less than twenty miles from the sea, measured along the course of the river.

### SECT. 3.—As to the intermediate districts.

The intermediate districts shall comprehend the lands lying within the counties or reputed counties of Bourke, Grant, and Normanby, in the district of Port-Phillip, which are not hereinbefore directed to be included in the settled lands ; also all the lands in the county or reputed county of Auckland, which are not included in the settled lands as hereinbefore mentioned ; also the entire district of Gipps Land, except the parts included in the settled lands as hereinbefore mentioned ; also the counties, either already formed or intended to be formed, between the County of Auckland and the County of St. Vincent ; also any county or

counties of which the boundaries may be fixed and proclaimed on or before the 31st December, 1848.

**SECT. 4.—As to the unsettled districts.**

The unsettled districts shall comprehend all the lands of New South Wales, excepting such lands as are now, or hereafter lawfully may be, comprehended within the limits of the settled and intermediate lands within the said colony.

## CHAPTER II.

### RULES TO BE ENFORCED WITHIN THE UNSETTLED DISTRICTS.

**SECT. 1.—**It shall be lawful for the Governor for the time being of the said Colony, or the officer for the time being administering the Government of the Colony, and he is hereby empowered to grant leases of runs of land within the unsettled districts, to such person or persons as he shall think fit, for any term or terms of years, not exceeding fourteen years in duration, for pastoral purposes, with permission, nevertheless, for the lessee to cultivate so much of the lands respectively comprised in the said runs as may be necessary to provide such grain, hay, vegetables, or fruit, for the use and supply of the family and establishment of such lessee, but not for the purpose of sale or barter; and so, nevertheless, that such leases shall in no case prejudice, interrupt, or interfere with the right of the Governor or other officer for the time being administering the Government of the said Colony, to enter upon any of the lands comprised in the said leases, for any purpose of public defence, safety, improvement, convenience, utility, or enjoyment, agreeably to the provisions for those purposes contained in the 9th section of the second chapter of this Order in Council, or otherwise.

**SECT. 2.—**The rent to be paid for each several run of land shall be proportioned to the number of sheep, or equivalent number of cattle, which the run shall be estimated as capable of carrying, according to a scale to be established for the purpose by authority of the Governor. Each run shall be capable of carrying, at least, four thousand sheep, or equivalent number of cattle, according to the scale aforesaid, and not in any case to be let at a lower rent than ten pounds per annum, to which two pounds ten shillings per annum shall be added for every

additional thousand sheep, or equivalent number of cattle, which the run shall be estimated as capable of carrying.

SECT. 3.—In order to estimate the number of sheep or cattle which each run will carry, before the granting of the said lease as hereinbefore mentioned, the intended lessee or occupier shall name a valuer, and the Commissioner of Crown Lands shall either act as valuer, or name one to act for him; and these two valuers shall have power to choose, if necessary, an umpire; but if they cannot agree in the choice of an umpire, he shall be appointed by the Governor or the officer for the time being administering the Government of the said Colony.

SECT. 4.—The rents to be paid, according to the scale above mentioned, are to be reserved exclusively of any existing assessments of taxes or rates on sheep and cattle, and are to be paid without abatement on account of the existing or any future assessments of taxes or rates on sheep and cattle, and in no way to interfere with the right of the Colonial Legislature to impose, from time to time, such assessments as may be deemed advisable.

SECT. 5.—The rent for each run shall be payable yearly in advance, at such time and place as shall be respectively specified in the lease of the said run of land. In the event of default being made in the payment of the rent, the lease shall be forfeited, but the lessee shall be permitted to defeat the forfeiture, and prevent its becoming absolute and indefeasible, by payment, within sixty days from the date of the original rent day, of the full annual rent, with the addition of a sum equal to one equal fourth part of the yearly rent so due from him, by way of penalty; but unless the whole of the said yearly rent, with such penalty as aforesaid, shall be duly paid within the term of sixty days, counting from the original rent day inclusive, the lease shall be absolutely and indefeasibly forfeited. And it shall be competent to any individual to demand of the Governor, or of the officer for the time being administering the Government of the Colony, or of any officer or officers acting by his authority for the present purpose, that a fresh lease of the run so forfeited be offered to sale, under the general rule hereinafter provided for that purpose, in section 12 of this chapter.

SECT. 6.—During the continuance of any lease of lands occupied as a run, the same shall not be open to purchase by any other person or persons except the lessee thereof. But it shall

be lawful for the Governor, or the officer for the time being administering the Government of the said Colony, to sell to such lessee any of the lands comprised in the lease granted to such lessee, provided that the quantity of the lands sold to such lessee shall not be less than one hundred and sixty acres, and that the price to be paid for the same shall not be below the general minimum price of one pound for each acre : Provided also, that if the portion or lot of any such run sold to such lessee be less in extent than three hundred and twenty acres, the expenses of the survey of the portion so sold shall be paid by the purchaser.

SECT. 7.—Every lot to be sold under the provisions before mentioned shall be subject to the following conditions :—

First—Each lot must be rectangular, unless the features of the country, or the course of any river or stream, render a deviation from the rectangular course necessary ; and, in every case, two sides at least of the lot must be directed to the cardinal points of the compass.

Second—The two opposite sides of any stream or watercourse which, according to the practice of the department of the Surveyor General, ought to form a boundary between different sections or lots, shall in no case be included in the same lot.

Third—No single lot shall have more than four hundred and forty yards of water frontage for one hundred and sixty acres, or more than a like proportion of water frontage for any quantity greater than one hundred and sixty acres, but the water frontage shall be reckoned according to the distance from one extreme point thereof to the other in a right line, and not according to the bendings of the watercourse or river ; and the Governor, or Officer for the time being administering the Government of the said Colony, shall have the right of refusing to sell any lot or lots, in every case where it may appear to him that the sale of such lot or lots respectively might give an undue command over water required for the beneficial occupation and cultivation of the lands adjoining either side of any stream or watercourse.

SECT. 8.—It shall be lawful for the Governor, or Officer for the time being administering the Government of the said Colony, to except, out of any such sale or sales as aforesaid, all such lands as it may appear to him expedient to reserve for any of the public uses for which it is enacted, by the third clause of the Act passed in the fifth and sixth years of Her Majesty, chapter 36, intituled

*An Act for regulating the Sale of Waste Lands belonging to the Crown in the Australian Colonies,* that lands required for public uses may be excepted from sales authorised by that Act, and if there be reason to suppose that any of the lands applied for under the regulations hereby expressed possess peculiar advantages, whether of water frontage or otherwise, which would render it fit that a higher price should be paid for such lands, the Governor, or the Officer for the time being administering the Government of the said Colony, or any Officer authorised by him for the purpose, may require the said lands to be assessed by valuers appointed, in manner provided in section 3 of the second chapter of this Order in Council, in order that the value, if estimated by them or their umpire at more than one pound per acre, the higher amount may be paid for such lands accordingly.

SECT. 9.—That nothing in these regulations, or in any lease to be granted under the powers hereby vested in the Governor, shall prevent the said Governor, or Officer for the time being administering the Government of the said Colony, from making grants or sales of any lands within the limits of the run or lands comprised in such lease for public purposes, or disposing of, in such other manner as for the public interest may seem best, such lands as may be required for the sites of churches, schools, or parsonages, or for the construction of highroads or railways and railway stations, or other internal communications, whether by land or water, or for the use or benefit of the aboriginal inhabitants of the country, or for public buildings, or as places for the interment of the dead, or places for the recreation and amusement of the inhabitants of any town or village, or as the sites of public quays, or landing places on the sea coast or shores of navigable streams, or for the purpose of sinking shafts and digging for coal, iron, copper, lead, or other minerals, and effectually working coal, or iron, or copper, lead, or other minerals, or for any other purpose of public defence, safety, utility, convenience, or enjoyment, or for otherwise facilitating the improvement and settlement of the Colony; but so that the quantity of land which may be granted or sold to any railway company shall not exceed in all the rate of one hundred acres for every mile thereof in length.

SECT. 10.—That if at any future period a railroad be made through or near to the districts comprising unsettled lands, all lands within the distance of two miles of the railroad shall, not-

withstanding any lease of the run within which such lands shall be situated, be liable to be sold at the end of each successive year from the date of the said lease : Provided that at least sixty days previous notice shall have been given to the lessee, and so that such lessee shall be entitled to all the same conditions, reserving to the previous lessee the right of pre-emption, and the value of improvements as are hereinafter mentioned with reference to the case of a sale at the expiration of the full term of such lease.

**SECT. 11.**—All occupants of Crown Lands, who shall have been in licensed occupation of the same for at least one year at the time when this Order in Council shall come into effect, are to be entitled to demand leases of their respective runs under the present regulations, within six months from the date of the publication of this Order in Council by the Governor, or other Officer administering the Government of the said Colony, but not afterwards ; and all occupants who have been in licensed occupation of their lands for a shorter period than the term of one year, shall be entitled, upon the expiration of the same term of one year, without having forfeited their respective licences, to demand leases of their respective runs, under the regulations herein contained : Provided such lease shall be lawfully demanded within six months after the expiration of the said term of one year, but not afterwards.

**SECT. 12.**—When any run of lands, after being occupied, shall be forfeited, or become vacant without the previous occupant's having exercised his right of renewal hereinafter reserved, it shall be competent for any person desirous of acquiring a lease of such run of lands, to give notice to the Governor, or Officer for the time being administering the Government of the said Colony, of his, her, or their desire to purchase anew the lease of such run of lands, and immediately after such notice the Governor, or Officer administering the Government of the said Colony, shall direct sealed tenders to be sent in at such time and place, and in such form as he shall think fit, by the person giving such notice as aforesaid ; and also by such other person (if any) as may be disposed to enter into competition for the said lease ; and every tender so to be made shall state the term of years for which it is proposed to take the said run, and whether, in addition to the *minimum* rents required agreeably to the provisions contained in

sections 2 and 3 of the second chapter of this Order in Council, it is proposed to offer any, and, if any, what amount of premium for *the lease*; and the said tender or tenders shall be opened in the presence of two or more persons authorised by the Governor, or Officer for the time being administering the Government of the said Colony for that purpose; and if there shall be more than one tender, the tenders shall be opened at the same time, and if there shall be only one tender, the lease of the run shall be given to the person making such tender, provided the rent offered shall be admissible under the provisions contained in sections 2 and 3 of this chapter of the Order in Council; but if there shall be more competitors than one, the lease of the run shall be given to such person or persons as shall tender the *highest amount of premium* for the same; but if two or more tenders shall be made for the same run, and no one of them be higher than all the rest, a future day shall be announced by the persons who open the tenders, on which day it shall again be competent to all persons to offer fresh tenders, in the same manner as hereinbefore provided in regard to the first tenders.

SECT. 13.—If any individual be desirous to acquire a new run of land which has never been occupied before, he shall be at liberty to send in a sealed tender, at such time and place, and in such form, as may be appointed by the Governor, or Officer administering the Government of the said Colony, for receiving tenders for new runs, and shall set forth in his tender a clear description of the run for which he applies, and of the boundaries of the same, and shall state whether, beyond the amount of rent to be *ascertained*, as hereinbefore provided, he is willing to offer any, and if any, what amount of *premium for the lease*, and such tenders shall be in all respects dealt with as hereinbefore provided in section 12 of this Order in Council for tenders for runs which have been forfeited or fallen vacant, save and except that if it shall occur that two or more persons have thus applied for different runs, of which part of one run would include part or the whole of another run, the Governor, or Officer for the time being administering the Government of the said Colony, or the person or persons authorised by him to act in this behalf, shall declare what shall be the several runs for which it shall be competent to parties to tender, and another day shall then be named, at which the pre-

vious applicants, and all other persons, shall be at liberty to offer fresh tenders for the runs so delivered.

**SECT. 14.**—A lease shall be liable to forfeiture in three modes:—

First—It shall be forfeited for non-payment of rent, as provided in section 5 of the 2d chapter of this Order in Council.

Second—It shall be forfeited absolutely immediately upon any conviction for felony against the lessee; and

Third—In the event of his conviction by a Justice of the district for any offence against the law, the case may be inquired into within three months after the conviction, by two or more Justices, who, if they think fit, may adjudge the lease to be forfeited, with or without compensation for the value of the improvements, according to the nature of the offence: Provided always, that no such adjudication of forfeiture pronounced by the Justices shall take effect until confirmed by the Governor, or Officer administering the Government of the said Colony.

**SECT. 15.**—Upon the expiration of a lease, it shall be competent for the Governor, or Officer administering the Government of the said Colony, to put up all or any part of the lands included in a run for sale, subject to the following conditions:—

First—The previous lessee shall have the option of purchasing the land for its fair value in an unimproved state, which shall never be estimated at less than £1 per acre.

Second—If declined by the previous lessee, the value of any improvements on the land offered for sale shall be ascertained by valuers appointed under the provisions contained in section 3 of the second chapter of this Order in Council: Provided nevertheless, that the sum so to be estimated and allowed for, is in no case to exceed the amount of the actual outlay made by the lessee.

Third—The upset price shall then consist of the joint value of the land and the improvements, and, if the land be sold, the amount of the improvements shall be paid over to the previous lessee, and only the balance be retained by the Government.

**SECT. 16.**—If no part of the run be sold, the previous lessee shall be entitled to a renewal of the lease of the whole, or if any part of the run, not amounting in all to one equal fourth thereof, be sold, such lessee shall be entitled to a renewal of the lease for the remaining parts of the land comprised in his run, subject to the reservation of an increased rent described in the next hereinafter following section of these rules and regulations; and provided,

nevertheless, that the boundaries of the different classes of land in the Colony shall not in the meanwhile have been so far extended as to bring the said run within the class of settled lands; and provided also, that if brought within the class of intermediate lands, the lessee shall only obtain a renewed lease of the said run under the rules hereinafter laid down as applicable to that class of lands.

SECT. 18.—The rent of every lease of a run of land, after the expiration of the first lease granted under this Order in Council, is to be paid by any new lessee on the number of sheep and cattle which the run shall be estimated to carry in its improved, instead of its unimproved state, in the same manner as provided for in sect. 3 of the second chapter of this Order in Council; but, as an encouragement to improve, the lessee whose lease shall be renewed is to be exempt from paying any increase beyond fifty per cent. upon the amount of rent reserved under the expired lease.

### CHAPTER III.

#### RULES APPLICABLE TO INTERMEDIATE LANDS.

SECT. 1.—Within lands coming under the description of intermediate lands the interests in runs shall be acquired, held, and determined upon the same terms and conditions as above laid down for unsettled lands, excepting that the leases shall not be made for more than eight years in duration, and that at the end of each successive year from the date of the lease, it shall be competent for the Governor, or Officer for the time being administering the Government of the said Colony, provided he shall have given sixty days previous notice, to offer for sale all or any part of the lands within any such run, subject to the same conditions in favour of the lessee as are above laid down in case of a sale at the expiration of the full term of a lease of unsettled lands.

### CHAPTER IV.

#### RULES APPLICABLE TO SETTLED LANDS.

SECT. 1.—Within the boundaries of the settled lands, it shall be competent for the Governor or Officer for the time being administering the Government of the said Colony, to grant

leases of lands exclusively for pastoral purposes, for terms not exceeding one year; and it shall further be competent for the Governor, or Officer for the time being administering the Government of the said Colony, if he deem it expedient, to make general rules, under which the holders of purchased lands within such districts of settled lands may be permitted to depasture, free of charge, any adjacent Crown Lands: Provided that the depasturage of such unsettled lands, free of charge, shall in no way interfere with the right of the Government at any time to dispose of the same, either by sale or by lease for one year as above mentioned.

And the Right Honourable Earl Grey, one of Her Majesty's Principal Secretaries of State, shall give the necessary directions herein accordingly.

Wm. L. BATHURST.

### No. 5.

11 VICTORIA, No. 61. *An Act for appointing Commissioners to examine and report upon disputes respecting boundaries of Runs between the Claimants of Leases under Her Majesty's Order in Council of the Ninth March, One thousand eight hundred and forty-seven.*

[Assented to, 17th June, 1848.]

WHEREAS by an Act of the Imperial Parliament of Great Britain and Ireland, passed in the ninth and tenth year of the reign of Her present Majesty Queen Victoria, intituled *An Act to amend an Act for regulating the Sale of Waste Lands belonging to the Crown in the Australian Colonies, and to make further provision for the management thereof*, it was amongst other things enacted, that it should be lawful for Her Majesty, by any Order in Council, to make and establish all such rules and regulations as to Her Majesty should seem meet, for the purposes therein recited, and any such rules and regulations again to repeal, renew, alter, and amend, and that all such Orders in Council should have the force and effect of law in the Colonies aforesaid; and whereas certain rules and regulations were accordingly made and established by Her Majesty, by and with the advice of Her

Privy Council, on the ninth day of March, in the year of Our Lord one thousand eight hundred and forty-seven, to be thenceforth observed, and to have the force and effect of law: And whereas the said rules and regulations were promulgated in the New South Wales *Government Gazette*, on the seventh day of October, one thousand eight hundred and forty-seven: And whereas it is expedient and necessary, for the information of the Governor for the time being, to provide a mode of investigating and reporting on disputes respecting boundaries of Runs between the Claimants of Leases under the above recited Order in Council: Be it therefore enacted, By his Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That it shall and may be lawful for the Governor of New South Wales, to appoint from time to time any number of fit and proper persons (not being Commissioners of Crown Lands) to be Commissioners for investigating and reporting on such disputes as aforesaid; and each such Commissioner shall have full power and authority to hear, examine, and report on all disputes between Claimants of Leases under Her Majesty's said Order in Council respecting boundaries of Runs beyond the Settled Districts of the Colony: Provided always, that it shall be lawful for the said Governor to remove any such Commissioner, and appoint another in his stead, as to His Excellency may seem meet.

II. And be it enacted, That every such Commissioner shall, before proceeding to act as such, take and subscribe, before any Bench of Magistrates sitting in Petty Sessions, the oath set forth in the Schedule to this Act annexed, marked A, which oath, when so taken and subscribed, shall be transmitted by the Clerk of such Petty Sessions to the Office of the Colonial Secretary, in Sydney, or of the Superintendent at Melbourne, as the case may be, there to be filed and kept on record.

III. And be it enacted, That it shall be lawful for the Governor of the said Colony, as often as His Excellency shall see fit, to refer any such disputed claims as aforesaid to any one of the said Commissioners, to the end that all such claims may be duly examined and reported on for the information and guidance of the Governor for the time being; and the said Commissioner shall proceed to hear, examine, and report on such disputed claims in manner hereinafter mentioned: Provided that nothing

herein contained shall authorise any such Commissioner to receive or report on any such disputed claims, but such as shall be referred to him by the Governor as aforesaid.

IV. And be it enacted, That whenever and so often as any disputed claim shall have been referred as aforesaid, public notification thereof shall be made in the New South Wales *Government Gazette*, or in the Port-Phillip *Government Gazette*, if the land in dispute be situated in the Port-Phillip District, and within sixty days from the date of such notification it shall be incumbent on the respective claimants to lodge with the Commissioner to whom such disputed claim has been so referred, a memorial, signed by the party lodging the same, which memorial shall set forth a true description of the party claiming, and of his usual residence, and of the land in respect of which a lease is claimed, and a true statement of the circumstances under which such claim is made: Provided always, that such memorial may at any time thereafter be amended by leave of the said Commissioner.

V. And be it enacted, That at any time after the expiration of the period for lodging the memorials as aforesaid, it shall be lawful for the Commissioner to appoint the time and place at which he will proceed to hear the case so in dispute: Provided always, that the place of hearing shall be within the limits of the district where the land in dispute shall be situated; and provided further, that the said Commissioner shall cause a notice in writing to be left at or directed to the usual place of residence of each claimant who, by his memorial, shall have signed the same, at least one calendar month previous to the day fixed for the hearing of the case, apprising him or her of the time and place so fixed; Provided also, that the said Commissioner shall have power to enlarge the period so fixed, and to adjourn any such hearing from time to time as the justice of the case may seem to him to require.

VI. And be it enacted, That in hearing and inquiring into all claims to leases or runs, or any part of a run as aforesaid, every such Commissioner shall be guided by the real justice and good conscience of the case, without regard to legal forms and solemnities, and shall direct himself by the best evidence that he can procure, or that is laid before him, whether the same be such evidence as the law would require in other cases or not; and in case

he shall be satisfied that the person or persons so claiming a lease of the land in dispute, is or are entitled in equity and good conscience thereto, or to any portion thereof, he shall report the same to the Governor accordingly, and shall set forth the boundaries by which the said lands may be described in every such lease ; Provided always, that a view may be taken by the said Commissioner of the land in dispute, at the instance of either party : Provided also, that nothing herein contained shall be held to oblige the Governor to make and deliver any such lease as aforesaid, unless His Excellency shall deem it proper to do so.

VII. And the better to enable the said Commissioners, or any of them, to set forth the boundaries of any lands so in dispute : Be it enacted, That it shall be lawful for every such Commissioner to call to his assistance any Surveyor duly appointed by His Excellency the Governer in that behalf ; and it shall be the duty of such Surveyor to survey, mark, and describe the boundaries of the said lands, according to the direction of the said Commissioner : Provided always, that the expense of any such survey, marking, and description of such boundaries, shall be paid by the party against whom the said Commissioner shall report ; and in default of such payment, within twenty days from the date of an order to be made by the said Commissioner in that behalf, the amount so directed to be paid shall be levied by warrant, under the hand of the said Commissioner, by distress and sale of so much of the goods and effects of the party so failing to pay as may be necessary to satisfy the same.

VIII. And be it enacted, That it shall and may be lawful for every such Commissioner to issue summonses requiring all such persons as shall therein be named to appear before him at a place and time to be therein appointed, to give evidence as to all matters and things known to any such person respecting any claim as aforesaid, and to produce in evidence all deeds, instruments, or writings in the possession or control of any such persons, which they might by law be required and compelled to give evidence of, or to produce in evidence in any cause respecting the like matters depending in the Supremo Court of this Colony, in so far as the evidence of such persons, and the production of such deeds, instruments, and writings shall be necessary for the due investigation of any such claims as aforesaid, depending before the said Commissioner, and that all such evidence shall be taken down in

writing, in presence of the witnesses respectively giving the same, and shall at the time be signed by them, or, in case of their refusing or being unable to sign, by some competent witness; and that all such evidence shall be given on oath or affirmation, which oath or affirmation it shall and may be lawful for every such Commissioner to administer to every person appearing before him to give evidence; and that any person taking a false oath or making a false affirmation, in any case wherein an oath or affirmation is required to be taken by this Act, shall be deemed guilty of wilful and corrupt perjury, and, being thereof duly convicted, shall be liable to such pains and penalties as, by any laws now or hereafter in force, any person convicted of wilful and corrupt perjury are or shall be subject and liable to.

IX. And be it enacted, That whenever any person who being duly summoned to give evidence before any such Commissioner as aforesaid, his or her reasonable expenses having been paid or tendered, and not having any lawful impediment allowed by the said Commissioner, shall fail to appear at the time and place specified in such summons, or after appearing shall refuse to be sworn, or make affirmation, as the law in each case may require, and to answer any lawful question, or to produce any deed, instrument, or writing, which he or she may lawfully be required to produce, or, without leave obtained from the said Commissioner, shall wilfully withdraw from further examination, then, and in every such case, the said Commissioner shall certify, in writing under his hand, such default, or refusal, or wilful withdrawing, and thereupon it shall and may be lawful for the person at whose instance, or on whose behalf such summons as aforesaid was issued, to take out the process of the Supreme Court at Sydney or Melbourne, as the case may be, for summoning such last mentioned person to appear before the Court from which such process shall issue, at the time therein specified, summarily to show cause why he or she should not be attached, fined, or imprisoned for such default, refusal, or wilful withdrawing as aforesaid; and if such person, having such last mentioned summons duly served upon him or her, shall at the time therein specified fail to show cause for his or her said default, refusal, or withdrawing, to the satisfaction of such Court, it shall and may be lawful for such Court, on proof by the return of the Officer serving the same, or by affidavit of the due service of the said summons to give evidence, and of the said sum-

mons to show cause, and, on production of a copy of the said certificate under the hand of the said Commissioner, to grant a warrant to apprehend the person so failing to show cause, and to commit him or her to prison, there to remain without bail, until he or she shall submit to be sworn, or to make affirmation as aforesaid, and to answer all such questions, and to produce all such deeds, instruments, or writings as aforesaid, in so far as shall lawfully be required of him or her, and further to set such fine upon such person as the Court shall think meet ; and, unless the same shall be forthwith paid, to grant process for levying the amount thereof upon the property of such person ; and every such fine, or the amount thereof, which shall be levied, shall forthwith be paid to the Prothonotary of the said Court, at Sydney, or Deputy-Registrar of the Supreme Court at Port Phillip, as the case may be, and the said Prothonotary or Deputy-Registrar shall forthwith, out of the amount of such fine, pay to the person at whose instance the sentence imposing the fine was obtained, the expenses incurred in summoning the person so fined, as aforesaid, and in obtaining such sentence, as taxed by the said Prothonotary, or Deputy-Registrar, and shall account for and pay over the residue of such fine, in like manner as he is by law required and directed to account for and pay over fees or fines received by him as Prothonotary or Deputy-Registrar of the said Courts respectively.

X. And be it enacted, That there shall be paid to the Commissioners, for and on behalf of Her Majesty, Her Heirs, and Successors, by every claimant, and opposing claimant as aforesaid, before the case is heard, the several fees specified in the Schedule hereunto annexed, marked B, and the said Commissioners shall duly account for all fees so paid to them as aforesaid, and shall pay the same into the Colonial Treasury at Sydney, or Melbourne, as the case may be, at such times and in such manner as the Governor may by any regulations in that behalf appoint ; and all such sums so received shall be applied as hereafter directed to the purposes of this Act, and the overplus, if any, to the public uses of the said Colony, and in support of the Government thereof, as by an Act of the Governor and Legislative Council may be directed.

XI. And be it enacted, That each of the said Commissioners shall and may receive for his own use, for every final report made by him in manner aforesaid, upon a disputed claim to a lease, the

sum of fifteen pounds ; and it shall be lawful for His Excellency the Governor to order and direct, by warrant under his hand, that every such sum shall be paid from and out of the Public Treasury of the said Colony.

CHS. A. FITZ ROY, GOVERNOR.

SCHEDULES REFERRED TO.

A.

COMMISSIONER'S OATH.

I, do solemnly swear that faithfully, diligently, and impartially, to the best of my ability, I will execute the duties appointed under and by virtue of a certain Act of the Governor of New South Wales, with the advice of the Legislative Council of the said Colony, made and passed in the eleventh year of the reign of Her Majesty Queen Victoria, intituled, *An Act for appointing Commissioners to examine and report upon disputes respecting boundaries of Runs between the claimants of Leases under Her Majesty's Order in Council of the ninth March, One thousand eight hundred and forty seven*, and that I will not myself, directly or indirectly, take or receive, or knowingly permit any other to take or receive, any fee or reward for anything done or performed under and by virtue of any of the provisions of the said Act, other than and except such as is authorised by the said Act. So help me God,

A. B.

Sworn before us, this day of , 184 .

J. P.

J. P.

B.

FEES TO BE PAID BY CLAIMANTS.

Amount to be paid by each of the claimants before the case is heard.....	£7 10 0
For every Summons for Witness, each Summons containing not more than four names, by the party requiring the same....	0 2 6
For every Witness examined, or document or voucher produced in evidence, by the party on whose behalf examined or produced.....	0 2 6
For taking down the examination of any Witness.....	0 2 6
For every 100 words, after the first 100, additional .....	0 1 0
For every certificate granted by a Commissioner, of default, refusal to answer, or wilful withdrawing of any Witness..	0 5 0

## No. 6.

Colonial Secretary's Office, Sydney, 7th October, 1847.

LEASES OF CROWN LANDS BEYOND THE SETTLED DISTRICTS.

1.—His Excellency the Governor, in reference to his Proclamation of this date, publishing her Majesty's Order in Council, regulating the occupation of Waste Lands of the Crown within this Colony, deems it proper to caution the Licensed Occupants of Waste Lands of the Crown beyond the settled districts, that the rights conferred on them by the 11th section of cap. II. of the Regulations, must be exercised within the periods in that section prescribed, by relation to the date of the Proclamation above referred to, publishing the said Order in Council.

2.—The applications must be lodged in the Office of the Colonial Secretary, in Sydney, if the Lands for which the lease is applied for be situated within the Sydney or Middle District, or of His Honour the Superintendent at Melbourne, if within the Southern or Port Phillip District; and, in order to preserve uniformity, the applicants will be required to use the printed forms —copies of which may be obtained from the Commissioners of Crown Lands beyond the Settled Districts, as well as at the Office of the Superintendent at Melbourne, and at this Office.

3.—All such applications must set forth the names and clear descriptions of the runs applied for, and of the boundaries of the same, as prescribed with respect to new runs, by the 13th section of chap II. of the Order in Council. In such descriptions it will be necessary to refer to leading geographical features, and marked or determined boundary lines, as well as to the names of the occupants of adjacent lands, and to give the length and general direction of the several boundary lines with reasonable certainty; and also to state the supposed extent of the runs, and the number of sheep, or equivalent number of cattle, which each run may be estimated as capable of carrying.

4.—An abstract of all applications received will, from time to time, be published in the New South Wales *Government Gazette* or Port Philip *Government Gazette*, for the information of all parties concerned.

5.—Persons who object to the claims of others, either wholly or in part, as comprising lands to the lease of which they may

conceive themselves entitled, are recommended to lodge in the Office of the Colonial Secretary, or Superintendent of Port Philip, caveats referring to such claims, and specifying the lands to which their objections extend, and the grounds on which they prefer their claims to the same.

6.—It will be impossible that the issue of leases should take place immediately on demands being made for them. In many cases the Government may not be able, until the end of the year 1848, to determine whether the particular runs applied for will be included in the *intermediate* or *unsettled* districts, and in all cases it will be necessary to consider and decide on the claims of applicants—to verify the descriptions of the runs—and to estimate the number of sheep or cattle which each run will carry—and the rent accordingly to be paid. His Excellency, however, desires at the same time to intimate, that all *practicable despatch* will be used for the purpose of putting the occupants of Crown Lands in possession of the leases to which they may be entitled under Her Majesty's Regulations.

By His Excellency's Command,

E. DEAS THOMSON.

## No. 7.

Colonial Secretary's Office, Sydney, 1st January, 1848.

(TENDERS FOR RUNS.)

His Excellency the Governor, in pursuance of Her Majesty's Order in Council, bearing date the 9th day of March, 1847, has been pleased, with the advice of the Executive Council, to establish the following Regulations for the receipt and disposal of Tenders, as well for *forfeited* or *vacated* runs as for *new* runs.

### I.—FORFEITED OR VACATED RUNS.

1. On the receipt of a notice from any person of his desire to purchase the lease of a run, which, after having been occupied, may have fallen vacant, either by forfeiture or surrender, and to the leasing anew of which no objection shall arise, a notice will be

issued in the *Government Gazette*, describing the boundaries and grazing capability of the run applied for, stating the maximum number of years for which a lease thereof will be granted, and fixing a time and place at which sealed tenders, in a prescribed form, will be received from the applicant, and from any other persons desirous to enter into competition with him, for the purchase of the lease of the described run.

2. Every such tender must state the term of years within the limit mentioned in the notice for which it is proposed to take the run, and whether, in addition to the rent required by the Order in Council, it is intended to offer any, and, if any, what amount of premium for the lease.

3. The tenders will be opened in the presence of a Board of officers appointed by the Governor, and will be disposed of in the manner directed in the 12th section of chapter II. of her Majesty's Order in Council, a copy of which is annexed to this notice for more easy reference.

4. The lease will be made out as soon after the acceptance of the tender as may be practicable; and the intending lessee will be required to take up the lease by payment of the first year's rent, and the premium (if any) within sixty days from the date of the notification of the acceptance of his tender; in default of which, the run will be again declared open to public competition.

5. Until the lease has been actually taken out, the intending lessee will acquire no title whatsoever to the occupation of the land tendered for.

## II.—TENDERS FOR NEW RUNS.

1. Sealed tenders for new runs will be received on the first Monday in every month—commencing on Monday the 7th day of February next.

2. The tenders in the prescribed form are to be addressed to this office, if the land be situated in the Middle District, or to the office of His Honour the Superintendent at Melbourne, if situated in the Port Phillip District.

3. The tenders will be opened in the presence of a Board of Officers appointed by the Governor, and a record will be made in each case of the name of the highest tenderer, so as to secure him the lease, in the event of the land applied for proving to be available.

4. The description of each run tendered for will then be forwarded to the Commissioner of the district in which it is situated, with instructions to report whether it comprises any land leased or under promise of lease, or applied for in any other tender, and, if it does not comprise any such land, that he shall state what should be the run for which it shall be declared competent to parties to tender.

5. If the run applied for be available, the acceptance of the tender will be duly notified to the applicant; and the premium (if any) and first year's rent, computed in the manner hereinafter described, will require to be paid within sixty days from the date of such notification; in default whereof, the run will be declared, by advertisement in the *Government Gazette*, to be open for selection, and a day for the receipt of fresh tenders for it will at the same time be announced.

6. Until the first year's rent and premium (if any) shall have been actually paid, the intending lessee will acquire no right whatever to the occupation of the land tendered for.

7. It is also to be distinctly understood, that the Government reserves to itself the right of excluding from any such run, any lands which it may be deemed proper to reserve for any of the purposes referred to in the 9th section of chapter II. of the Order in Council.

8. In any case in which the boundaries of the run tendered for may require to be adjusted, so as to exclude from it any land leased, or under promise of lease, or applied for by another party, the amended description of the run, and the day on which fresh tenders will be received for it, will be publicly notified, in conformity with the provisions in that behalf contained in the 13th section of chapter II. of the Order in Council, a copy of which is annexed to the notice for more easy reference. The interval between such notification, and the day on which the tenders will be received, will not be less than one calendar month.

9. As a considerable interval must be expected to occur in every case between the acceptance of a tender for a new run, and the survey of its boundaries, and the valuation of its grazing capabilities, which will be requisite for the purposes of a formal lease and the final adjustment of the rent, the following general rules have been laid down, under which the occupancy of the run during such

interval may be granted to the successful tenderer, and the receipt of rent secured to the public.

(1.) Tenders for new runs must contain not only "a clear description of the run applied for, and the boundaries of the same," but also an estimate of its grazing capabilities; and the tenderer should state that, in addition to any premium which he may offer, he will be prepared to pay a yearly rent of ten pounds, with two pounds ten shillings added for every thousand sheep, or their equivalent in cattle, above four thousand sheep, or their equivalent, which the run shall be estimated as capable of carrying.

(2.) Until the number of sheep or cattle which the run can carry shall have been determined by valuation, in the manner prescribed in Her Majesty's Order in Council, the intending lessee will be required to pay according to his own estimate, as given in his tender; and in the event of the rent so paid, according to his own estimate, proving to have been less than that determined by valuation, he will be required to make up the difference previously to the execution of the lease.

10. Printed forms of tender for forfeited or vacated runs, and for new runs respectively, may be obtained from the several Commissioners of Crown Lands beyond the Settled Districts, as well as at the Office of the Superintendent of Port-Philip, and at this office.

By His Excellency's Command,

E. DEAS THOMSON.

## No. 8.

Colonial Secretary's Office, Sydney, 21st February, 1848.

### TENDERS FOR RUNS.

Referring to the notice, dated 1st January last, relative to tenders for runs of Crown Lands, His Excellency the Governor directs it to be notified, that in the receipt of future tenders the following rules must be strictly attended to:—viz.

1. The tenders will be opened at noon of the day appointed for their receipt—namely, the first Monday in each month. Any tender received after that hour will remain over until the time

appointed for opening tenders in the succeeding month, and will be subject to any competition which may arise, by reason of any tenders received up to that time.

2. No tender will be entertained in future, unless made in the prescribed printed form, containing all the necessary particulars.

3. The tenders must be endorsed, "Tender for New Run," or "Tender for Vacated Run," as the case may require.

4. As it is intended to act strictly on these rules, any person failing to comply with them will, after this intimation, have no reason to complain if he shall thereby lose any benefit which a compliance with them would have secured to him.

By His Excellency's Command,

E. DEAS THOMSON.

## No. 9.

Colonial Secretary's Office, Sydney, 31st March, 1848.

### TENDERS FOR NEW RUNS.

In reference to the regulations of the 1st January, 1848, respecting tenders for new runs, His Excellency the Governor, finding that some misapprehension exists on the subject, has been pleased, with the advice of the Executive Council, to direct that the following explanatory observations and additional rules should be published for general information.

1. The rule laid down in the notice of the 10th July, 1845, that no new run shall in ordinary cases consist of more than twenty-five square miles, is still to be observed. Persons therefore tendering for new runs, must not apply for any larger quantity than twenty-five square miles under a single lease, unless that quantity shall be insufficient in ordinary seasons for the pasturage of four thousand sheep, or their equivalent in cattle, in which case the run may be enlarged to the area necessary for that purpose. But if, on an estimate of its grazing capability, any run so enlarged shall be found to be greatly in excess of the quantity requisite for the pasturage of four thousand sheep, or their equivalent in cattle, it will be liable to be curtailed to the regulated

standard, and any further expense incurred, in surveys or otherwise, will have to be defrayed by the party tendering.

2. Any person desiring to obtain a larger tract of country than twenty-five square miles, will not be precluded from doing so by the rule referred to in the foregoing paragraph; but he must tender for it, not in one block, but in separate portions not exceeding twenty-five square miles each in extent.

3. In accepting tenders for new runs, the Government will reserve to itself the right in every case of modifying the boundaries proposed, so far as may be necessary to render them conformable to the undermentioned general rules; and the persons employed in the survey and measurement thereof will be instructed to adjust and describe the boundaries accordingly:—viz.

Subject to such deviations as the general features of the country, and the adoption of natural boundaries may require, every run must be in a compact block of rectangular form, in which the external lines shall run east and west, and north and south.

No person will be allowed so to shape his run as to secure to himself the exclusive use of water necessary to render any adjoining lands available.

4. No tenders already sent in will be rejected because of the quantity applied for as one run being in excess of the regulated area; but on the acceptance of any such tender, the applicant will be required to propose a subdivision of the land into separate holdings, so as to bring the area held under each lease within the prescribed limit, and to make it conformable in other respects to the general rules above laid down.

5. The regulations set forth in the above mentioned notice, of the 1st January, 1848, in respect to tenders for new runs, are manifestly inapplicable to parts of the Colony which are situated beyond the reach of the protection and control of the Commissioners of Crown Lands. The said regulations do not extend to such parts of the Colony, and tenders for runs so situated cannot therefore be entertained.

By His Excellency's Command,

E. DEAS THOMSON.

## No. 10.

Colonial Secretary's Office, Sydney, 1st January, 1848.

His Excellency the Governor, with the advice of the Executive Council, has been pleased to establish the following rules respecting the transfer of runs beyond the Settled Districts, *previous to the issue of leases*, under Her Majesty's Order in Council, dated 9th March, 1847.

1. Demands for leases of runs under the 11th section of chapter 2 of the Order in Council, will (with the exceptions mentioned in the 2d paragraph of this notice) be received from those persons only who were the licensed occupants of the runs at the date of the publication of the Order in Council by the Governor. But in consideration of the delay that must necessarily take place in the issue of the leases, any licensed occupant, who, after having demanded his lease, *may desire to part with his interest in the same, will be allowed to have the lease made out in favour of any person recommended by the Commissioner of the District*, on making written application to that effect to the Colonial Secretary, in Sydney, or to the Superintendent of Port Phillip, at Melbourne, as the case may be, such application to bear the applicant's own signature, attested by a magistrate or a Commissioner of the Supreme Court. In this case the original applicant will be debarred from all further claim to the lease, *the right of which will be thenceforth held to be vested in the person in whose favour he requested that it should issue*.

2. If, however, a person who had a right to demand a lease of a run in his occupation, under the terms of the 11th section of chapter 2 of the Order in Council, shall have died or become insolvent without having exercised such right, the demand for the lease will be received by the Government from his representative, or from any one coming forward on his representative's behalf. The issue of the lease, however, will, in such case, be suspended, until the claimant thereof shall have satisfactorily proved himself to be the legal representative of the deceased or insolvent person; and, in the meantime, the rent must be regularly paid, in default whereof, the run will be held to have become vacant, and the lease of it will be exposed to sale.

3. The transfer of *portions* of existing runs will, in no way, be

allowed by the Government. For each run, now recognised as such, but one lease will issue; and any portion of such run which may not be demised to the lessee of the remainder, will be held to have become vacant, and to be at the disposal of the Government.

By His Excellency's Command,  
E. DEAS THOMSON.

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### No. 11.

Colonial Secretary's Office, Sydney, 30th June, 1848.

With reference to the Notice of the 1st January, 1848, headed "*Transfer of Runs*," in which it is provided, that, "in consideration of the delay that must necessarily take place in the issue of leases of runs demanded under the 11th section of chapter 2 of Her Majesty's Order in Council, of the 9th March, 1847, any licensed occupant who, after having demanded his lease, may desire to part with his interest in the same, will be allowed to have the lease made out in favour of any person recommended by the Commissioner of the District, on making written application, in the manner in the said notice prescribed, but that, in this case, the original applicant will be debarred from all further claim to the lease, the right of which will be thenceforth held to be vested in the person in whose favour he requested that it should issue:" His Excellency the Governor, with the advice of the Executive Council, directs it to be notified, that in all cases in which claimants of leases of runs shall have alienated their right thereto, under the provisions of the notice above cited, the licences for such runs for the ensuing year will be issued, not to the persons who previously held them, but to the proposed transferees.

By His Excellency's Command,  
E. DEAS THOMSON.

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### No. 12.

Colonial Secretary's Office, Sydney, 1st January, 1848.

Her Majesty, by Order in Council, dated the 9th March, 1847, having determined that the rent to be paid for each several run

of crown land, beyond the settled districts of New South Wales, shall be proportioned to the number of sheep, or equivalent number of cattle, which the run shall be estimated as capable of carrying, according to a scale to be established for the purpose, by authority of the Governor, His Excellency directs it to be notified that he has, with the advice of the Executive Council, established the following scale for such purpose :—that is to say,

Six hundred and forty head of cattle shall be considered equal to four thousand sheep ; and in cases in which the stock upon a run may consist of sheep and cattle, the amount of mixed stock (horses being reckoned as cattle) shall be calculated in the proportion of six hundred and forty head of cattle to four thousand sheep.

By His Excellency's Command,

E. DEAS THOMSON.

### No. 13.

Colonial Secretary's Office, Sydney, 4th February, 1848.

His Excellency the Governor, with the advice of the Executive Council, has directed it to be notified, that several applications having been made to the Government by parties who have, from various causes, failed or omitted, within the time prescribed, to take out their licences for the current year, for the occupation of runs beyond the settled districts, but are now desirous to do so ; His Excellency has been pleased to lay down the following rules, under which they will still be permitted to obtain licences, on payment of a fine for their default :—namely,

1. All persons who held licences for their runs for the year ended on the 30th of June last, but who have failed to renew them for the present year, may now be allowed to do so, on payment of a fine, in addition to the price of the licence, at the rate of one pound for every month, or part of a month, which will have elapsed between the 30th of September last and the taking out of the licence.

2. It is to be clearly understood, that if, on or before the 6th of April next, being the day on which the period of six months will

expire within which certain licensed occupants of runs are entitled to demand leases, any person occupying Crown Lands beyond the Settled Districts shall not have taken out a licence for the current year, such person must be held not to have been in licensed occupation within the meaning of the 11th section of chapter II. of the Order in Council, and his demand for a new lease cannot, therefore, be entertained; his run will, accordingly, be declared to be forfeited, and the lease of it open for sale, in the manner prescribed by the 12th section of chapter II. of the Order in Council.

3. It is further to be understood that this notice does not apply to parties, if any, who, notwithstanding they have failed to take out their licences for the past, as well as the current year, have continued in occupation of Crown Lands; and who, according to the declaration contained in the notice of 30th June, 1846, have thus been holding against the will of the Crown. Their runs are therefore now considered to have become forfeited, and liable to be dealt with accordingly.

By His Excellency's Command,

E. DEAS THOMSON.

#### No. 14.

Colonial Secretary's Office, Sydney, 1st June, 1848.

His Excellency the Governor, with the advice of the Executive Council, directs it to be notified for general information, that the state of the Survey not yet admitting of the issue of leases for runs beyond the Settled Districts, all existing licences for the occupation of Crown Lands so situated will be renewed for the ensuing year, commencing on the 1st July next, on the same terms as licences have been granted for the now current year, subject, of course, to the adjustment of the licence fee, according to the quantity of stock returned by the Commissioner as depastured on every such run.

2. Adverting to the 5th section of chapter II. of Her Majesty's Order in Council, dated 9th March, 1847, which declares that leases of runs issued thereunder will be absolutely and indefeasibly

forfeited if the stipulated rent be not paid within the time therein prescribed, His Excellency the Governor desires it to be distinctly understood that claims to leases will, in like manner, be held to have become forfeited and void, if the licences for the continued occupation for the ensuing year of the lands for which leases are sought, shall not have been taken out within the time fixed by the present notice, namely, between the 1st day of July and the 30th day of September next.

3. If within the year commencing the 1st July next, the Government shall be in a position to grant leases of runs under Her Majesty's Order in Council, any licensee under this notice who may obtain a lease, will receive credit, in the payment of his first year's rent, for so much of the amount paid for his licence as may be proportionate to the unexpired part of the term for which the licence was granted.

4. The present regulation does not, however, extend to lands which have been brought by the Order in Council within the settled class, but which have hitherto been held under squatting licenses for pastoral purposes. The occupants of such lands will be enabled to obtain leases for the same on the terms prescribed in sections 22, 23, and 24 of the notice of 29th March last.

By His Excellency's Command,  
E. DEAS THOMSON.

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### No. 15.

Colonial Secretary's Office, Sydney, 8th August, 1848.

His Excellency the Governor, with the advice of the Executive Council, has been pleased to direct the publication of the following regulation, limiting the time within which certain claims to leases of runs beyond the Settled Districts will be entertained by His Excellency.

By the 11th section of chapter II. of Her Majesty's Order in Council, of the 9th March, 1847, it is provided, "That all occupants of Crown Lands who shall have been in licensed occupation of the same for at least one year at the time when this Order shall

come into effect, are to be entitled to demand leases of their respective runs under the present regulations, *within six months from the date of the publication of this Order in Council by the Governor, but not afterwards..*"

The said Order in Council having been published and brought into effect in the Colony on the 7th October, 1847, the period allowed for preferring claims to leases expired on the 6th April last, as respects those persons who, on the 7th October last, had been in licensed occupation of their runs for one year or more. All such persons, therefore, who failed to demand leases on or before the 6th April last, have lost the right of so doing conferred by the Order in Council. As a matter of grace, however, the Governor has not, up to the present time, refused to entertain applications for leases on the ground of their having been sent in subsequently to the expiration of the time prescribed by the Order in Council, nor will his Excellency do so as respects any further applications which may be received before the 30th September next, when the time allowed for taking out licences for the current year will expire; but after that date the Governor will not, under any circumstances whatever, entertain a demand for a lease of a run, from any person whose licensed occupancy of the run had, on the 7th October, 1847, been of not less than one year's duration.

It will of course be understood that this notice does not apply to parties who, having failed to take out their licences for the past year, are not entitled to demand leases under the provisions of Her Majesty's Order in Council above referred to.

By His Excellency's Command,

E. DEAS THOMSON.

## No. 16.

Colonial Secretary's Office, Sydney, 29th March, 1848.

### WITHIN THE SETTLED DISTRICTS.

In pursuance of Her Majesty's Order in Council, of 9th March 1847, His Excellency the Governor, with the advice of the Executive Council, has been pleased to establish, subject to the approval of the Right Honourable the Secretary of State for the Colonies,

the following regulations for the occupation of Crown Lands within the Settled Districts of the Colony, as they are now or may hereafter be defined.

2. The holders of purchased lands within the settled districts will be permitted to pasture their stock, free of charge, on any *vacant* crown lands, immediately contiguous to their respective properties, provided they do not erect any hut or building thereon, or clear, inclose, or cultivate any portion thereof; but it is to be distinctly understood, that such permission will in no way interfere with the right of the Government at any time to dispose of the lands either by sale or by lease.

3. The permission to pasture stock on vacant crown lands, *free of charge*, will not carry with it any other than a *commonage* right, to be enjoyed alike by all the holders of adjacent purchased lands. Persons desiring to secure the *exclusive* right of pasture over any particular Crown lands, must obtain a lease by purchase, in one or other of the modes hereinafter described.

4. Within the settled districts lands will be let, for pastoral purposes only, on annual lease, in sections of six hundred and forty acres each, as charted in the Surveyor General's office, and at a yearly rent not lower than ten shillings per section.

5. No portion of land, consisting of less than six hundred and forty acres, or one square mile, will be let on lease, except in special cases, which may render expedient a departure from this rule; and in any case where there is a broken section, with water frontage, the section behind will be added to the lot.

6. No sections lying, either in whole or in part, within the distance of five miles of either of the cities of Sydney or Melbourne, or within the distance of two miles from any town shown by the last census for the time being to contain more than one thousand inhabitants, nor any land set apart as the sites of towns or villages, or measured for sale as "Special Country Lots," nor any of the lands comprised within the Church and School Estates, will be open to lease under these regulations.

7. The annual leases issued under these regulations will be for the calendar year commencing on the first day of January; and all leases granted, whether taking effect from the first day of the leasing year, or from any subsequent date, will alike expire on the 31st December.

7. The leases will carry with them the exclusive right of occu-

pancy of the land *for pastoral purposes only*, during the period they shall remain in force; but a clause will be inserted in each lease, permitting the lessee to cut such timber, with the exception of cedar, as may be required for domestic uses, for firebote, fencing, stockyards, or other conveniences for the use of the land, for the purposes specified.

9. The leases will not be assignable, nor shall any portion of the lands held thereunder be assigned or sublet, under penalty of absolute forfeiture of the lease.

10. Lessees of lands under these regulations will not be entitled to any compensation whatsoever for any improvements they may effect on the lands.

11. The lands included in any lease will be open to purchase under the ordinary regulations, and, in the event of their being sold, or required for any public purpose, must be surrendered, as heretofore, by the lessee, upon his receiving one month's notice; but, in such case, the balance of the price of the lease for the time it has to run will be refunded to him.

12. Subject to the approval of His Excellency the Governor in each case, the leases held under these regulations may be renewed at the same yearly rent as that paid for the preceding year. Such renewals will be ordinarily sanctioned by the Governor, unless the lands be required for sale, or for any public purpose, or for the satisfaction of any new claims which may arise under the pre-emptive right hereinafter conferred on purchasers of crown lands. It is, however, to be distinctly understood that His Excellency reserves to himself the full power of periodically revising and altering the terms on which the leases will be granted or renewed, as the public interests may from time to time appear to him to require.

13. Persons desiring to renew their leases under the preceding clause, must make application to the Colonial Secretary, at Sydney, or to the Superintendent of Port Phillip, at Melbourne, if the lands be situated in that district, not later than the 31st August, in the year preceding that for which the leases will have effect, and, if allowed to do so, must pay the rent into the Colonial Treasury, not later than the 30th day of September in the same year.

14. All leases for the ensuing year, which shall not be renewed by the 30th of September preceding, will, whether applied for or not, be put up to auction, in or about the last week in the month

of November in each year, in the manner described in a subsequent part of these regulations.

15. No lease which has once been advertised for sale can be obtained by any person until it has been submitted to competition.

16. The holders in fee simple of any lands within the settled districts, whether acquired by purchase or grant, will be allowed, subject to the conditions hereinafter prescribed, to obtain leases of any vacant Crown lands adjacent to their respective properties, without competition, at the fixed price of ten shillings per section of 640 acres, and to the extent of *three times* their own purchased or granted lands, if there be so much vacant Crown land available. It is however to be understood, that the rule above laid down, that land will not be let in portions less than six hundred and forty acres, will not be departed from, in order to make up the exact quantity which an individual may be entitled to claim under this clause. And no person will be deemed entitled to the pre-emptive right hereby conferred, who does not hold purchased or granted lands in one block to the extent of, at least, one section.

17. If the holders of land in fee simple desire to lease a greater number of sections than they are entitled to claim under the pre-emptive right conferred by the preceding clause, they can only do so by purchase at auction.

18. In cases in which the same portions of land may be claimed by more than one party under the pre-emptive right conferred by clause 16, the Government will, at the expiration of the term allowed for preferring such claims, announce to each claimant the names of his competitors, in order that he may arrange with them respecting the division of the lands, in the manner pointed out in the next clause.

19. If there be more than two claimants, the division of the lands amongst them may be settled by private arrangement; and on the result of such arrangement being communicated to the Government, within the time prescribed in the following clause, in a document signed by all the contending parties, the lands will be apportioned and let accordingly; but if there be only two claimants, the question at issue between them may be determined by arbitration in the manner following:—Each party shall name an arbitrator, and the two arbitrators shall have power, if necessary, to elect an umpire, and, according to the award of such arbitrators or umpire, the land in dispute will be apportioned and

let. In considering the respective claims of the contending parties, it is desirable that the arbitrators and umpire should be guided by the extent of purchased or granted land held by each, so as to apportion the vacant Crown land in reference to such extent,—by the previous occupation of the land in dispute, according to the usage of the Colony, as part of the run of either of the parties—and the access to water for its beneficial occupation.

20. If, at the end of one month from the date of the letter announcing to the several claimants the names of their competitors, the Government shall be uninformed of a division of the lands having been made, either by agreement or by arbitration, the leases of the lands so circumstanced will be offered for sale by auction, and the public admitted as competitors for the same.

21. The holders of granted lands within the settled districts, on which the quit-rent has been redeemed, will, for the purposes of these regulations, be placed on the same footing in all respects as the holders of purchased lands. The holders of granted lands on which the quit-rent has not been redeemed, are not considered admissible, under the terms of the Order in Council, to the privilege of pasturing their stock on Crown lands free of charge, as above described, but they will be allowed to exercise the pre-emptive right mentioned in clause 16.

22. Lands which have been brought by the Order in Council within the settled class, but which have been hitherto held under squatting licences for pastoral purposes, will be let to the present licensed occupants thereof, on yearly lease, at the fixed rent of one pound per section, so long as they shall not be required for sale or for any public purpose, or be applied for on lease by any holder of purchased lands in the immediate neighbourhood. But whenever any holder of purchased land in the immediate neighbourhood, shall either put forward his claim to the number of sections which he may be entitled to rent under the pre-emptive right conferred by clause 16 of these regulations, or shall make application for a lease of any additional sections to be offered for sale by auction, such sections will not be re-let to the previous occupant, but will be withdrawn from his holding, in order that they may be demised to the person claiming the exercise of his pre-emptive right respecting them, or be let by auction, as the case may be. In respect, however, to any sections thus taken

out of the previous occupant's holding, in order that the leases of them may be offered for sale, such previous occupant will be allowed to continue to use them for pastoral purposes until the day of sale, and, in the event of their not being then purchased, to renew his lease for the current year at the rate above mentioned.

23. Any lot of land within the meaning of the preceding clause, which may not have been charted in sections in the Surveyor General's Office, will be let, until so charted, to the present licensed occupant thereof in one block, the amount of rent being determined by the computed number of sections therein contained, according to an estimate to be submitted by the occupant, and approved by the Surveyor-General, or the Surveyor in charge at Melbourne, according as the lands may be situated in the Sydney or the Port Phillip District.

24. Of the class of lands referred to in clause 22, no section containing valuable improvements, nor any of the sections contiguous thereto, will, for the present, be open to lease under these regulations, to any other persons than the present licensed occupants thereof.

25. Persons desirous of exercising either of the pre-emptive rights conferred by clauses 16 and 22 of these regulations, will be required to make application accordingly, in the one or other of the forms annexed, (A or B,) as the lands may be of the one or other of the classes referred to, describing as accurately as possible the sections which they desire to rent, and also specifying the purchased or granted lands, or the licensed runs, in respect of which they claim to exercise the pre-emptive right. These applications must be lodged at the Surveyor-General's Office, in Sydney, or at the office of the Surveyor in charge at Melbourne, on or before the 31st day of August in the year preceding that for which the desired leases will have effect.

26. All leases accorded by the Government under the pre-emptive rights conferred by clauses 16 and 22 of these regulations, will be notified in the *Government Gazette*; and if, within one month from the date of such notification, the rent for the same shall not have been paid into the Treasury, the leases will be offered for sale by auction.

27. All lands, to the leases of which no pre-emptive right shall have been exercised within the periods above specified, will be

open to lease, and be offered for sale by auction, on the application of any person requiring the same.

28. Applications for the lease, at auction, of particular portions of Crown Lands, are to be addressed as heretofore to the Surveyor-General in Sydney, or to the Surveyor in charge at Melbourne, in the form annexed, marked C.

In or about the last week in the month of November in each year, there will be a general sale by auction, at which will be put up all leases for the ensuing year which may have been applied for under the preceding clause, or which may have been claimed but not obtained under the pre-emptive right, or of which a right of renewal may have been granted but not exercised, as well as any leases which the Government may think it expedient to bring forward at its own instance.

30. Leases applied for under clause 28, subsequently to the general sale, will be put up at auction as demanded,—the term of the lease in every such case being the unexpired portion of the calendar year, as explained in clause 7.

31. No sale of leases under these regulations will take place without one month's notice thereof having been given by advertisement in the *Government Gazette*.

32. The sales will be held at the principal places of Petty Sessions of the Police Districts in which the lands may be respectively situated.

33. The upset price of each lot will be *ten shillings* per section of six hundred and forty acres; or *five shillings*, if half the current year shall have expired.

34. The Government reserves to itself the right to refuse the bidding of any one, as well as to withdraw any lot from sale. But this right will never be exercised, except for a sufficient and assignable cause.

35. The full price bid for each lot must be paid down on the day of sale; failing which, the land will be leased on application, as described in clause 38.

36. As early as possible after the day of sale, leases will be issued from the Colonial Treasury, at Sydney or Melbourne, accordingly as the lands may be situated in the one or the other of those Districts, to those persons who have duly paid their purchase money.

37. Any lot of land, the lease of which may have been offered

for sale at auction and not bid for, may be obtained on lease by any person of approved character, on payment at the Colonial Treasury of the upset price of ten shillings per section, or of half that price, if half the current year has expired.

38. The foregoing rule will also apply to those lands, the leases of which have been bid for, but the price of which has not been paid on the day of sale. In such case, however, the sum to be paid for the lease will be, not the upset price, or its half, but the highest price bid for the lot at the sale, or its half, if half year shall have expired.

39. Lots open to purchase under either of the two preceding clauses, but not taken, may be put up again at auction, either on the application of individuals, or at the instance of the Government.

40. The first Leases issued under these Regulations, will be for the year commencing on the 1st January, 1849.

41. All Licences now held, in terms of the Regulation of the 21st August, 1841, which will expire during the present year, may be renewed for the remainder thereof, on payment of rent at the same rate as that paid for the existing Licences, such payment to be made on taking the Licences up at the Treasury.

42. It is distinctly to be understood, that as soon as these Regulations shall have been brought into effect, all persons who may be found in occupation of Crown Lands within the settled districts, contrary to the plain intent and meaning of these Regulations, will be immediately proceeded against under the provisions of the Act of Parliament, 9 and 10 Vict. cap. 104.

43. The Regulations for the occupation of Crown Lands within the boundaries of location, dated 21st August, 1841, are hereby cancelled.—By His Excellency's command,

E. DEAS THOMSON.

## No. 17.

## (SCHEDULE A.)

*Form of Application to be used by the holder of purchased or granted Lands in the Settled Districts, when claiming to exercise the pre-emptive right.*

Place<sup>1</sup>

SIR,

Date

In pursuance of the Regulations of the 29th March, 1848, respecting the occupation of Crown Lands within the Settled Districts, I do hereby apply to be allowed Leases of the several sections of Crown Land hereunder described, at the fixed rent of ten shillings per section.

The Land in virtue of which I claim to exercise a right of pre-emption, is situated as follows, and is now in my possession, namely :—

County of	parish of	situated <sup>2</sup>
containing	acres, being the Land <sup>3</sup>	to <sup>4</sup>
which a deed of Grant has issued in favor of <sup>5</sup>		and for

I have the honour to be, Sir, your most obedient servant,

To<sup>6</sup>

*Description of the Sections applied for.*

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## No. 18.

## (SCHEDULE B.)

*Application to be used by the holder of a Squatting Licence in respect to portions of his Run situated in Settled Districts.*

Place<sup>7</sup>

SIR,

Date

In pursuance of the Regulations of 29th March, 1848, respecting the occupation of Crown Lands within the Settled Districts, I do hereby apply to be allowed leases of the several sections of Crown Lands hereunder described, at the fixed rent of One pound per section.

The Run in virtue of which I claim to exercise a right of pre-emption is as follows, and is now in my Licensed Occupation, namely :—

Commissioner's District

Name of Run

General Locality

I have the honour to be, Sir, your most obedient servant,

To<sup>8</sup>

State as accurately as possible the sections required according to the charting in the Survey Office.

If the lands be not charted in sections, the boundaries of the entire extent of land claimed should be given, with an Estimate of its area, in sections or square miles.

<sup>1</sup> State nearest Post Town.<sup>2</sup> State general situation of Land.<sup>3</sup> "Sold," or Granted," as the case may be.<sup>4</sup> State name of Purchaser or Promissee.<sup>5</sup> State name of Grantee.<sup>6</sup> To the Surveyor General in Sydney, or to the Surveyor in charge at Melbourne.<sup>7</sup> State nearest Post Town.<sup>8</sup> To the Surveyor General in Sydney, or to the Surveyor in charge at Melbourne.

## No. 19.

## (SCHEDULE C.)

*Form of ordinary Application for a Lease of Crown Lands within the Settled Districts.*

Sir,

*Place<sup>1</sup>**Date*

In pursuance of the Regulation of 29th March, 1848, respecting the occupation of Crown Lands within the Settled Districts, I have the honour to request that the Leases of the portions of Crown Lands hereunder described may be put up to public auction.

I have the honour to be, Sir, your most obedient servant,

To<sup>2</sup>*Description of the Lands referred to.*

- County of
  - Parish of
  - Situated<sup>3</sup>
  - and Bounded, &c.<sup>4</sup>
- 

## No. 20.

## COMMENCEMENT OF PASTORAL LEASES.

Colonial Secretary's Office,—Sydney, 28th October, 1851.

His Excellency the Governor-General, with the advice of the Executive Council, has been pleased to establish the following regulations with respect to the dates from which are to be computed the terms of the leases to be issued for Crown lands in the intermediate and unsettled districts, under Her Majesty's Order in Council of the 9th March, 1847.

2. As in consequence of the unavoidable delay that has occurred in the intended issue of pastoral leases, the licensed occupants of Crown lands have not hitherto been in the enjoyment of all the advantages which would have accrued to them from the possession of such leases, and as, moreover, it is known that many persons, in the full conviction that the terms of the leases would be computed from the date of issue, have disposed of their interest in pastoral runs subject to that condition, His Excellency, with the advice of the Executive Council, has been pleased to direct, that

<sup>1</sup> State nearest Post Town.

<sup>2</sup> To the Surveyor General in Sydney, or to the Surveyor in charge at Melbourne.

<sup>3</sup> State general locality.

<sup>4</sup> State the boundaries as accurately as possible, with reference to section lines.

in regard to all leases to be issued, both for lands held under licensed occupation previously to the promulgation of the Order in Council above referred to, and for runs *hitherto* acquired by tender, the maximum term of eight years and fourteen years, as the case may be, shall commence from a future certain day, namely, 1st January, 1852, without reference to the actual date on which the leases may issue, but that with respect to all runs hereafter taken up by tender, the duration of the lease shall be computed from the date of the first payment of rent under the accepted tender.—By His Excellency's Command,

(Signed)

E. DEAS THOMSON.

### No. 21.

#### CROWN LANDS BEYOND THE SETTLED DISTRICT.

##### RESERVES FROM LEASE.

Crown Lands Office, Sydney, 11th March, 1852.

It is hereby notified, for general information, that His Excellency the Governor-General has been pleased, with the advice of the Executive Council, to direct that the several portions of Crown Lands hereunder described shall be reserved from lease, under Her Majesty's Order in Council of 9th March, 1847, subject to the following limitations in favour of the licensed occupants thereby affected.

2. The formation of the intended reserve may in any case be defeated wholly or in part by the licensed occupant, whose run is thereby affected, exercising, within twelve months from the present date, the pre-emptive right conferred on him by Her Majesty's Order in Council of 9th March, 1847, in respect of the whole or any portion of the land proposed to be reserved.

3. No such pre-emption can be of less extent than 160 acres, and if less than 320 acres, the cost of measurement will have to be borne by the purchaser.

4. The price at which the licensed occupant of the run will be allowed thus to purchase without competition will be one pound per acre, or such higher price as may be fixed by valuers appointed under section 8 of Chapter II. of the Order in Council.

5. Every lot of land to be selected must be measured in accordance with the general rules laid down in section 7 of Chapter II. of the same Order in Council.

6. Should the licensed occupant fail to exercise his pre-emptive right, in respect of the whole or any part of the land proposed to be reserved, within twelve months from the present date, the reservation of the whole or the remainder, as the case may be, will then become absolute and indefeasible.

7. It is of course distinctly to be understood that, by this general formation of reserves, the Government does not in any way divest itself of the right of making hereafter such further reserves, whether before or after the issue of leases, as the public interests may dictate.

8. The foregoing regulations are intended to apply to runs, out of which reserves are now for the first time about to be made.

(Signed)                   GEO. BARNEY,

Chief Commissioner of Crown Lands.

## No. 22.

### EXTRACTS FROM THE DESPATCH OF LORD GREY,

*Secretary of State for the Colonies, dated 29th November, 1846.*

"There is, as you will observe, a very material difference between the conditions on which it is proposed that land should be held in the three different classes of districts which it is intended to establish, and the nature of this difference is such as would make it necessary that you should act with extreme caution in classing the lands of the Colony in one or the other of these districts. Land in the unsettled districts, according to these regulations, would be put absolutely out of the power of the Crown, and be rendered unavailable for settlement, for the long period of fourteen years. It would therefore be absolutely necessary that no lands should be so classed except those which, from the remoteness of their situation, you have reason to feel assured will not be required for sale to the public, for the purpose of permanent occupation, during the term for which the leases will be granted."

In the concluding paragraph, His Lordship writes, "I have to instruct you to be most careful on this point, since it would be

a source of very serious injury, both to the Colony and the mother country, if, at the end of eight or ten years, it should be found that the progress of emigration was checked, by the inability of the Crown to find lands to intending emigrants. You will recollect also, that as the proposed regulations with regard to intermediate lands will secure to the actual holder a right of occupation for eight years, unless they are previously required for purchase, and will also assure to him, on giving up possession, a right to the value of his improvements, there would also be the less occasion for placing in the class of Unsettled Districts any lands as to which even a doubt can be entertained."

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### No. 23.

EXTRACT FROM LORD GREY'S DESPATCH TO SIR CHAS. FITZROY,  
*Transmitting the "Order in Council," of date 30th March, 1847.*

" I have in my former despatch explained to you the great importance which I attach to avoiding an error of this kind, with a view to the interests of future settlers, and how great my anxiety is that no undue extension should be given to the lands to be defined as unsettled, and which would thus be put out of the power of the Crown, and rendered unavailable to the public by purchase, for the long period of fourteen years."

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### No. 24.

EXTRACT FROM "ORDER IN COUNCIL,"  
*Dated 18th July, 1849.*

" Provided always that no such condition, or claim of forfeiture, exemption, or reservation, shall entitle *any person, other than the holder* of such lease, to use the lands comprised therein for the purpose of pasture or *cultivation.*"

## PART II.

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### No. 25.

Bacchus Marsh, 13th November, 1847.

SIR,—We beg to call your Honour's attention to the following statement of facts, with reference to two of the lots of land advertised for sale by the Governor's proclamation of the 23d October last. The lots alluded to are styled,—

90, Grant 229, Parish of Parwan, per No. 28.

91, Grant 229, Parish of Parwan, per No. 29.

Now these portions of land are comprised in the run of which we are the licensed occupiers, and fall within the division of Intermediate Lands, made by the Order in Council of the 9th March ; under that Order in Council we, as such licensed occupiers, are entitled to claim from the Crown a lease of the land comprised in our run, which lands could not be put up for sale save under certain conditions with respect to notice, &c. which have not been complied with in the present instance. Had we been in possession of our lease, there could be no doubt that any grant made by the Crown of such lands would be bad, if the condition imposed by the Order in Council were not complied with by the authorities here ; and our position now is this : we have been given, by the Act of Parliament, and the Order in Council made pursuant to it, a right to claim a lease ; this right is such an one as a Court of Equity would enforce in the case of individuals : and, in so doing, would place persons entitled to a lease in the same position as if the lease had been actually granted at the time when their right accrued. We feel that it cannot be the wish of the authorities here to encroach on the rights of individuals ; and we hope that our drawing your Honour's attention to the circumstances, will be sufficient to have these sections omitted from the sale of December 8th. We should, however, feel obliged by the earliest notification of the course to be pursued by the Government, as it is of course

important to us to know whether it will be necessary for us to take any further steps for the protection of our rights.—We have, &c.

(Signed) JAMES MOORE.  
CHARLES GRIFFITHS.

His Honour the Superintendent of Port Phillip, &c. &c., &c.

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Superintendent's Office, Melbourne, 22nd November, 1847.

SIR,—I beg leave to forward to you, with a request that the subject may be brought at once under his Excellency's notice, a copy of a letter which I have received from Messrs. Moore & Griffiths, adducing reasons why they consider that certain portions of land, noted in the margin, ought to be withdrawn from the sale to take place under His Excellency's proclamation on the 9th December next, together with a copy of memorandum, exhibiting my view of the case, which it appears is coincided in by the Crown Prosecutor, and under which I feel it my duty to notify Messrs. Moore and Griffiths, that I do not consider myself justified to direct the withdrawal in question, for the reasons which they adduce, but as there still remained time for the submission of the case to the Governor, I would take advantage of the present mail to forward a copy of it for His Excellency's consideration.—I have, &c.

(Signed) C. J. LA TROBE.

The Hon. the Colonial Secretary.

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Melbourne, 22nd November, 1847.

SIR,—Having perused Messrs. Moore and Griffiths' letter of the 13th inst. and your Honour's memorandum accompanying the same, I do myself the honour to state, that I am of opinion your Honour's memorandum is a full answer to the complaint of these gentlemen. I cannot see that any condition or terms appertaining to the relation in which these gentlemen stand to the Crown, as the licensed occupiers of their run, have been violated. Surely they cannot think that the Government should give them personal notice. The notice in my mind Messrs. Moore and Griffiths are entitled to, is the usual notice given upon any public sale of land in the *Gazette*. In fact, I cannot see anything in the Order in Council of the 9th March, 1847, giving squatters the right of pre-emption under tenure, under which they, the squatters, are at present in

occupation of their runs. The only right the first of the conditions annexed to the 15th section, alluded to by Messrs. Moore and Griffiths, confers on them, is to give the option of purchasing land for its fair value. I can see nothing, either in the 1st or 15th section, chapter 2, nor in the 1st section, chapter 3, disabling His Excellency the Governor from disposing of the two sections alluded to in the letter of Messrs. Moore and Griffiths of the 13th instant. I further think those gentlemen have got the only notice they can consider themselves entitled to.—I have, &c.

(Signed) JAMES CROKE,

The Hon. the Superintendent.

Crown Prosecutor.

### No. 26.

Superintendent's Office, Melbourne, 23d December, 1847.

SIR,—Reverting to the correspondence which I had the honour to forward to you on the 22d November, on the subject of certain sections included in the licensed run of Messrs. Moore and Griffiths, in the parish of Parwan, which were advertised for sale by His Excellency's proclamation of the 23rd October last, and to which sale the gentlemen in question objected, for reasons given in their letter of the 13th of November, and to your acknowledgment of the receipt of the same by your communication of the 4th December, No. 673, informing me that it had been found necessary to refer it to the law officers, I have the honour to state that, having received no further information at the date the sale took place, I was unable to give any directions to the sub-treasurer for the withdrawal of the lots in question.

I have since received a communication from that officer, informing me of the course pursued by these gentlemen in reference to the sale of the lots in question, by which it appears they were prepared to contest the validity of the sale by the interposition of a caution, to be publicly given in the auction room, in order to deter purchasers, and stating the circumstance and considerations under which the sub-treasurer considered himself justified in withdrawing the lots from sale.

I consider the course of proceeding adopted by Messrs. Moore and Griffiths of such an unusual character, that it should be brought under His Excellency's notice.—I have, &c.

(Signed) C. J. LA TROBE.

The Hon. the Colonial Secretary.

## No. 27.

Colonial Secretary's Office, Sydney, 3rd January, 1843.

SIR,—In referring to my letter of the 4th ultimo, I do myself the honour, by the direction of His Excellency the Governor, to transmit to you the accompanying opinion of the Attorney-General and Solicitor-General, on the claim made by Messrs. Moore and Griffiths to have certain lands, licensed to them in the county of Grant, withdrawn from the intended sale on the 9th ultimo, as coming within the denomination of Intermediate Lands, under the Order in Council of the 9th March last, by which you will perceive that those officers consider that the lands in question can be sold as proclaimed.—I have, &c.

(Signed) E. DEAS THOMSON.

The Hon. Superintendent of Port Phillip.

## OPINION.

I have conferred with the Solicitor General on this matter, and we are of opinion that the land in question can be sold under the Governor's proclamation, but not exactly upon the ground upon which Mr. La Trobe and the Crown Prosecutor of Port Phillip rest that opinion, because it seems to us that, so far from the right of claim of lease not being given till after the expiration of six months from the publication of the land order, the correct construction of section 11 of chapter 2 of the order is, that the demand is to be made at some time before the end of six months.

The terms of the regulations restraining the sale of land, except in the manner provided by the Order, apply only to the time when the lands are actually under lease (sections 6, 9, and 15); and such is not the present position of these lands, for it does not seem that as yet Messrs. Moore and Griffiths have ever made the demand, which must be the first step towards obtaining a lease.

It is not to be denied that an indiscriminate sale of lands under licensed occupation within the Intermediate and Unsettled Districts, between the publication of the Order and the demand of the lease, would be open to much objection. But here it seems that the sections were applied for, and such application approved of by the Government, before the publication; and from the position of the lands it is not perhaps unreasonable to surmise that they should (under section 9 of chapter 2) be left open for purchase on grounds

of public "utility" or "convenience," or for facilitating the improvement and settlement of the Colony.

Care should be taken, when the lease to Messrs. Moore and Griffiths is prepared, that those sections be specially excluded.

(Signed) J. H. PLUNKETT.

## No. 28.

Colonial Secretary's Office, Sydney, 22nd March, 1848.

SIR,—Referring to your Honour's letter of the 23rd December last, No. 1377, relative to the withdrawal from sale of two portions of land at Port Philip, in consequence of the proceedings of Messrs. Moore and Griffiths, within whose licensed run the lands are situated, I am instructed to transmit, for your Honour's information, a copy of the minutes of the proceedings of the Executive Council on this subject.

I have referred to the Crown law officers on the two points on which the Council desired legal advice, and I am now to request that your Honour will report, in accordance with the suggestion of the Council,—

1. Whether there are any lands adjoining those referred to which it would be specially desirable to include in a reserve to be formed in that locality;

2. As to the expediency of establishing a general rule, that all *measured* lands, situated within any part of the Intermediate Districts, which, previously to the publication of the Order in Council, were within the boundaries of location, should be expressly reserved from lease, in order that they may be immediately available for settlement whenever a demand for them may arrive; and

3. That your Honour will furnish a return, showing the position and extent of the several lands in the Port Phillip District which would be reserved from lease if this principle were adopted. I have, &c.

(Signed) E. DEAS THOMSON.

The Hon. Superintendent of Port Phillip.

Proceedings of the Executive Council on the 3rd February, 1848,  
 relative to the withdrawal of certain lands from sale at Port-  
 Phillip, in consequence of the proceedings of Messrs. Moore  
 and Griffiths, the present licensed occupants thereof.—Minute  
 No. 48 | 4 E, confirmed 9th March, 1848.

Executive Council Office, 13th March, 1848, No. 48 | 89.

Referring to their proceedings on the 18th January last, when the papers in the case were laid before them, the Council resume the consideration of the measures which it will be expedient to take in respect to the land withdrawn from sale by the sub-treasurer at Melbourne, in consequence of the proceedings of Messrs. Moore and Griffiths.

The Council think it highly expedient, for the maintenance of the rights of the Crown, that the lands in question should be early offered again for sale, but the manner of doing so appears to require serious consideration.

In the first place, the Council advise that the following questions should be submitted to the Crown law officers for their opinion :—

1. By the 17th section of the Crown Lands Sales Act, 5 and 6 Vict., c. 36, the Governor is empowered to grant licences for the occupation of the waste lands of the Crown in the Colony; and it is enacted by the same clause, that no such lands shall be sold until after the expiration of the licence for the occupation of the same. Can the Governor, consistently with the provisions of this clause, offer for sale any lands comprised within the recognised boundaries of a run occupied under an ordinary pasturage licence, or must he await the expiration of the licence before proceeding with the sale?

2. Messrs. Moore and Griffiths are in licensed occupation of lands situated within the Intermediate districts, as defined by her Majesty's Order in Council of the 9th March, 1847, and are entitled to demand a lease of those lands accordingly, under the 11th section of Chapter II. of the said Order. Two sections of those lands were applied for, for purchase, in 1847. In a proclamation, dated the 7th October, 1847, they were advertised for sale on the 9th December, 1847, but were then withdrawn by the officer conducting the sale, in consequence of the proceedings taken by Messrs. Moore and Griffiths, as explained in the correspondence on the case. The Government now desire again to offer the same

sections for sale, before the expiration of the existing licence, if the law will allow it; but if not, immediately on its expiration shall the Governor proclaim the intended sale, without any reference to the Order in Council; or is it necessary or expedient that he should first declare that, by virtue of the powers vested in him by the 9th section of Chapter II. of that Order, he intends to reserve these particular lands from the lease which will be issued to Messrs. Moore and Griffiths?

The Council next advise, that when the time and manner of proceeding with the sale shall have been determined by the Crown law officer's opinion on the foregoing questions, those officers should be further instructed to prepare the form of proclamation to be used in notifying the intended sale. It may also be desirable that they should draw up a document, to be read, if necessary, at the sale, guaranteeing on the part of the Crown that the purchasers will be maintained in possession of the lands, notwithstanding any proceedings adopted by the present licensed occupants.

The Council further suggests that, subject to the opinion of the Crown law officers, a communication should be made to Messrs. Moore and Griffiths, that they will be proceeded against by the Government for damages, should the sale be prejudiced by any proceedings on their part.

The Superintendent of Port-Philip should be requested to report whether there are any adjoining lands which it would be specially desirable to include in a reserve to be formed in that locality.

This case has suggested to the Council the possible expediency of establishing a general rule, that all *measured* lands situated within any part of the Intermediate Districts, which, previous to the publication of the Order in Council, were within the boundaries of location, should be expressly reserved from lease, in order that they may be immediately available for settlement whenever a demand for them may arrive. But before pronouncing a decided opinion in respect to the expediency of such a rule, the Council desire to receive the opinion and report of the Superintendent of Port Phillip as to the probable practical working of it in his district.

The Council would further desire to receive a return, showing the position and extent of the several lands in that district which would be reserved from lease if this principle were adopted.

(Signed)      FRANCIS L. S. MEREWETHER,

Clerk of the Council.

Superintendent's Office, Melbourne, 22nd April, 1848.

SIR,—I take leave to acknowledge your letter of the 22nd March, No. 48 | 177, referring to the withdrawal from sale of two portions of land cited in the margin, in consequence of the proceedings of Messrs. Moore and Griffiths, within whose licensed run the lands are situated, transmitting for my information a copy of the minutes of the proceedings of the Executive Council on this subject, and requesting my report on certain points.

In reply to the first inquiry, whether there are any lands adjoining those referred to which it would be specially desirable to include in a reserve to be formed in that locality,—

I beg to state, that the sections in question form part of certain subdivided sections in the parishes of Merrima, Parwan, and Korkuperrimul, within the counties of Grant and Bourke, in the vicinity of the Werribee River. Of these, whether sold or unsold, I beg to forward a return, and to add, that I think it will be well to exempt the whole of the latter from lease. They lie without the Settled District, and of course are comprised within the intermediate land.

The second inquiry is as to the expediency of establishing a general rule that all measured lands, situated within any part of the Intermediate Districts, which, previously to the publication of the Orders in Council, were within the boundaries of location, should be expressly reserved from lease, in order that they may be immediately available for settlement, whenever a demand for them may arise.

With reference to the inquiry, and the following instructions (3), I beg to inclose,—

1. A return of all measured lands, both of *sold* and of *unsold*, at this date, within the counties of Bourke, Grant, and Normanby, which may be beyond the limits of the respective *Settled Districts*, showing the position and contents, and whether now considered open to selection at upset price; and, further,—

A return of all measured lands, sold or unsold, at this date, without the boundaries of the three counties, in the same form, specifying the quarter in which they lay, &c. &c.

There are no measured lands of the above description at this time without the boundaries of the Settled District around Alberton.

I have here to remark, as to the unsold Crown lands within the

Settled District, the regulations recently issued from your office, of the 29th March, interpose no hindrance to their being brought forward for sale whenever required; and it might appear that the Government would be therefore at this date at liberty, either at its own pleasure or on the application of individuals, to take measures for such sale. Nevertheless, by the decision of the Governor and Executive Council, of the 27th October, 1847, communicated to me in your letter of the 17th November last, No. 629, the improved portion of all runs within the Settled Districts are for the present reserved from sale, pending the decision of the Home Government; the quantity of land at the disposal of the Government for sale within the Settled District even is, to a certain degree, in consequence restricted.

In the Intermediate District I have gathered, from recent correspondence, that the Government would not consider itself justified to proclaim for sale lands held at this time under licence, and for which application for lease had been made.

Now if this be the case, no land whatever of this class can be with propriety brought forward for immediate sale, seeing that all these lands are at present occupied in the above manner; and it may be presumed that for the greater portion applications for lease have been sent in.

I presume that, nevertheless, however subject, as they necessarily have been and are, to temporary occupation, in common with other measured sections in the immediate vicinity not so situated, sections in the Intermediate District which have been already put up for sale by auction, and remain unsold, may even at this date be held to be open to selection at upset price, under the 11th clause of the regulations of the 1st March, 1843, and that the same is the case with measured sections similarly situated in the Unsettled District, of which it will be seen there are a considerable number.

If the power of the Government in bringing forward land for sale is so far restricted, both in the Settled and the Intermediate District, its hands are equally tied within the Unsettled, whether within or beyond the limits of the proposed new counties; and this is clear from the decision in the case of Mr. Clarke's application for sale of 10,000 acres, at present in the licensed occupation of Mr. Coghill, which shows that, until the decision of the Home Government upon the the various points referred to it is

known, no application for the sale of the lands so situated and so circumstanced will be entertained.

I have made the above observations, to show that the power of Government to sell country land, wherever situated, until the questions adverted to are decided, the proper reserves made, and the system has come a little more into operation, is almost done away with in this district; and to point out that in this portion of New South Wales, where the quantity of land comprised within the Settled Districts, exclusive of the extended and almost barren coast line, is so limited, very little country land whatever can be for the present brought forward for sale to meet the public requirements.

Under these circumstances, I certainly think that all the measured lands within the three counties, which with Gipps Land form the whole of the present Intermediate District, and may be considered identical with the country within the boundaries of location, should be specially reserved from lease, as suggested by His Excellency the Governor and the Executive Council.

The return No. 2. shows the amount of such unsold land so situated, as well as the lands sold at this date.

I may remark that no provision has been made, or apparently contemplated to be made, for the extension of the privileges of the occupation of the neighbouring unsold sections, to the purchasers of the Crown lands in the Intermediate and Unsettled Districts; and yet it appears to me to be difficult to assign a reason why such privilege should be exclusively assigned to the purchaser of Crown lands within a certain limit only. A glance at the chart of this district, and the return No. 2, will show, especially in the case of the Colac District, now supposed to lie within the unsettled lands, how reasonably a claim for such privilege might be preferred by occupants of purchased sections in that vicinity, particularly if it be decided that many of the unsold measured sections in their vicinity at this very time are open to selection at upset price, under the 11th section of the regulations of 1st March, 1843.

In conclusion, and with special reference to the information given by return No. 3, of all measured lands *without* the limits of the boundaries of the three counties, my own impression is, that it is advisable that none of these measured lands should be included in any lease to be issued. It appears to me that the quantity

of measured land in the district is not much greater than ought to be kept available, and open for purchase if required, the rather as it is certain, that, viewing the absolute necessity of following up the general survey of the district, and the laying out the main lines of road, and the reserves, that the survey departments will have little or no time to attend to special applications for the survey of fresh portions for purchase for some time to come, unless its strength be very considerably increased expressly to this end.

But in making this suggestion I am aware that difficulties stand in the way, and am not clear that His Excellency will feel himself at liberty to act in accordance with it at this time.—I have, &c.

(Signed) C. J. LA TROBE.

The Hon the Colonial Secretary, Sydney, &c. &c. &c.

### No. 29.

Attorney-General's Office, 8th November, 1848.

SIR,—We have the honour to acknowledge the receipt of your letter of the 22nd March last, referring to the opinion given by the Attorney-General in December last, as to the power of the Government to offer for sale certain portions of land at Port Phillip, comprised within the licensed run of Messrs. Moore and Griffiths, and requesting our further opinion on the matter.

In reply, we beg to apologise for the great delay that has taken place in answering your letter, but it was owing to a difference of opinion that you will perceive exists in the case between us.

We have the honour to transmit our separate opinions herewith.

We have, &c.—(Signed) J. H. PLUNKETT,  
The Hon. the Colonial Secretary. Attorney General.

I retain the opinion expressed by me before, in conjunction with the late Solicitor-General.

Of the power of the Crown to sell and give a good title I entertain no doubt; and as the application to purchase was made and approved before the claim of Messrs. Moore and Griffiths to a lease came into existence, I conceive that the Government is pledged to give the applicant the opportunity to purchase which he sought, and which was virtually, if not actually promised, when no claims whatever interfered with the rights of the Crown.

I cannot help thinking that the effect of the Land Orders in Council has been very considerably and generally misunderstood, because it does not appear to me that the 11th section of Chapter II. gives an absolute right to a lease at all, and certainly not to an eight or fourteen years' lease.

That section certainly is couched in very positive terms as to the right to "demand" leases; but it must be read in connection with the first section of the same chapter, which purports to give the Governor some discretion as to the persons to whom he shall "grant" leases, and an unfettered authority as to the duration of the lease within the maximum limits specified. If the 11th section were construed as giving to the licensed occupant a pre-emptory right to a lease, it would be thereby made irreconcilable with the first section; but, if possible, it is the duty of those who may have to interpret the rules to give effect, even to apparently discordant provisions, by making each operate as a qualification of the other, so that both may be made to speak in unison. Taking the two sections together, I do not think that the 11th section gives to the licensed occupant such an absolute right to the land for any definite period as could be recognised as a legal bar to the sale. If, under any conceivable circumstances, the Governor has a discretionary power of withholding a lease, no man can assert a right to one until the discretion has been determined in his favour; and until the Governor has irrevocably fixed the duration of a lease, no man can say as matter of law that he is in the virtual position of a lessee for a definite term, and that at the particular moment at which a sale takes place he was possessed of rights paramount to that of the vender.

The clause which prohibits the sale of leased land during the continuance of the lease does not in terms apply to the case of Messrs. Moore and Griffiths, inasmuch as there is no lease in existence, and therefore it does not operate as an actual prohibition of this sale.

In ordinary cases, it would and ought to be so considered by the Government that a licensed occupant, to whose demand of a lease there is really no objection, is entitled to have the lands in his occupation withheld from sale during the period for which it is really in contemplation as a general measure to grant leases, subject only to the express provisions of sections 6 and 9 of chapter 2, and section 1 of chapter 3; but as in this case the Crown was

pledged to give the applicant for purchase an opportunity to buy the land before the proclamation of the Queen's Order in Council, it would seem to be the duty of the Government to stand upon its strict legal rights, in order to protect its honour.

It does not appear to admit of question that the Governor may make sale of these lands, if they are required "for facilitating the settlement of the Colony." But if the lease had been issued there would a difficulty arise under the word "required," there being no express provision made by means of which it can be determined what lands are so required, and it requiring a clear case to divest an interest once formally given ; and both before as well as after lease a question arises upon the words "for facilitating the settlement of the Colony." These words, as I understand them, are not intended to give a power to sell any particular sections to a *private applicant* for purchase, but must either refer to spots required as townships, or to tracks of land adapted for general settlement. The whole clause has reference to public interest only, and if the words were understood so as to authorise the sale of the two sections in question independently of any other ground, the effect of the conditions granted by section 15 in favour of the lessee might be arbitrarily avoided in any case.

I think, therefore, that if the sale were proposed to be effected for facilitating the settlement of the Colony, these particular sections should be included in a larger reservation of land available for settlement as contra-distinguished from squatting.

If the fact be that these lands and others in the neighbourhood are so available, and the settlement would be retarded by allowing them to be put under lease, it appears to me desirable that public notification should be given of their being reserved for settlement, and that the sale of these sections should be made after and with reference to this notification.

This last remark is in reply to the inquiry submitted to the law officers as to the expediency as well as necessity of making a declaration under section 9 before the sale is effected.

I have now only further to state, that in my opinion the lands cannot be sold during the continuance of Messrs. Moore and Griffith's occupation licence.

(Signed) J. H. PLUNKETT, Attorney-General.

No. 30.

It appears to me that Messrs. Moore and Griffiths are, under the circumstances here stated, entitled to a lease of the lands mentioned in the accompanying case, if they have applied, or do duly apply for the same.

It is admitted that at the time when the Order in Council came into effect, they were in licensed occupation of these lands so as to entitle them to *demand* a lease of them, under the eleventh section of Chapter II. of such Order; and, these being intermediate lands, under Chapter III. of such Order the duration of such lease is directed to be eight years.

No doubt there is a provision in the said last-mentioned chapter, that the Governor may, at the expiration of each successive year from the date of the lease, offer the land for sale, but still giving to the lessees a right of pre-emption.

But it is here proposed, before such lease has been granted (and after Messrs. Moore and Griffiths have, under the aforesaid Order in Council, become entitled to the same), to offer this land for public sale, and sell the same; not that it is required for any of the purposes mentioned in the third section of 5 & 6 Vict. Chapter XXXVI, or the ninth section of Chapter II. of the aforesaid Order in Council, but merely because some *private* individual has applied to purchase the same, and may be expected to give a good price for the same, to answer *his own individual* purposes.—I have &c.

The Hon. the Colonial Secretary, &c., &c., &c.

No. 31.

Attorney General's Office, Sydney, 12th December, 1848.

SIR.—We beg leave to acknowledge the receipt of your letter of the 4th instant, stating that his Excellency the Governor having laid before the Executive Council our letter of the 8th ultimo, submitting our separate opinions with respect to the power of the Governor to offer for sale certain portions of land comprised within a licensed run in the district of Port Phillip, you are now desired by His Excellency to inform us, that before giving any advice as to the course to be pursued in respect to the sale of the land in question, the Council desire to receive our opinion on the following further question. The run of Messrs. Moore and Griffiths (in

which the land is comprised) being situated in an Intermediate District, the Governor would be empowered, if a lease of it had been issued, to offer any portion of the run for sale at the end of any year from the date of the lease, upon giving sixty days' notice to the lessee, and subject to the conditions in favour of the lessee which are specified in Chapter II., section 15, of the Order in Council. Can the Governor offer any portion of the run for sale, upon these same terms and conditions, whilst it remains held under a yearly licence?

In reply, we have the honour to state, that we are of opinion that, until a lease of this land has been issued under the first section of Chapter III. of the Rules and Regulations made by Her Majesty in Council, on the 9th day of March, 1847, and has either expired by lapse of time, or been determined by a notice, as is therein provided, no portion of it could be legally put up for sale in the way suggested.—We have, &c.

(Signed)            J. H. PLUNKETT, Attorney-General.  
                          W. FOSTER, Solicitor-General.

The Hon. the Colonial Secretary, &c. &c. &c.

### No. 32.

Colonial Secretary's Office, Sydney, 22nd March, 1848.

SIR,—I duly received and submitted to the Governor your Honour's letter of the 31st December last, No. 1399, on the subject of the application of Mr. W. J. T. Clarke to purchase at auction a large portion of the licensed run of Mr. Wm. Coghill; and His Excellency, with the advice of the Executive Council, instructed me to make your Honour the following communication in reply.

Mr. Coghill, as the present licensed occupant, is entitled to demand a lease of his run, under the Order in Council, Chapter II. section 11.

The Government will be bound to grant to Mr. Coghill, on his demand, a lease of his run, with the exception of such portions (if any) as it may be thought expedient to reserve for any of the purposes referred to in section 9 of Chapter II. of the Order in Council.

If Mr. Coghill's run be not withdrawn from the class of unsettled lands, by the proclamation of a new county in that locality, the Government will be precluded, during the continuance of his

lease, from selling any portion of the run to any other person than Mr. Coghill himself, or of disposing of it in any manner, unless it be required for any of the purposes referred to in section 9 of Chapter II. of the Order in Council, or be within the distance of two miles from a railroad.

If Mr. Coghill's run be brought within the class of intermediate lands, the Governor may sell any portion of it at the end of each year, during the continuance of the lease, on giving sixty days' notice; but Mr. Coghill will be entitled to exercise the pre-emptive right conferred on lessees of intermediate lands in such cases by the Order in Council.

It thus appears that Mr. Clarke's application for purchase cannot be entertained at all until it shall be decided within what class of lands Mr. Coghill's run will be placed.

In answer to the general inquiry in your Honour's letter of the 27th December last, No. 47 | 1398, I am directed to observe, that during the present year no lands but such as are in the settled districts, or such as it may be expedient to reserve under the 9th clause of Chapter II. of the Order in Council, should be offered for sale. At the end of this year it will be open to the Government to bring forward for sale land comprised within the intermediate districts, as they may then be defined, subject to the conditions in favour of the lessees which are specified in the Order in Council.—I have, &c.—(Signed) For the Colonial Secretary,

W. ELYARD, JUNR.

His Honour the Superintendent of Port Phillip.

### No. 33.

Colonial Secretary's Office, Sydney, 14th September, 1850.

SIR,—In acknowledging the receipt of your Honour's letter of the 9th ultimo, respecting the application made by Messrs. Rogers, Lamb, and McGaa, to have the Kilmore estate brought within the settled districts, I do myself the honour to inform you that the gentlemen in question have been apprised that the Executive Council cannot advise His Excellency the Governor to propose any further extension of the settled district.—I have, &c.

(Signed) E. DEAS THOMSON.

His Honour the Superintendent, Port Phillip.

## No. 34.

Colonial Secretary's Office, Sydney, 28th December, 1850.

SIR,—1. Referring to your Honour's letter of the 31st October last, No. 220, relative to the power of the Government to offer for sale portions of runs in the Intermediate Districts, before the issue of the leases to the occupants thereof, I have the honour to inclose a copy of the report from the Crown law officers, from which your Honour will perceive that in their opinion the right of the Government, under Chapter III. of the Order in Council, to offer for sale portions of runs in the Intermediate Districts, before the issue of leases thereof to the present occupants, is at least too questionable to be asserted.

2. Whilst however communicating to your Honour this opinion, His Excellency the Governor, with the advice of the Executive Council, directs me to point out to your Honour, that although, until the issue of the leases, the Government will not be able, under Chapter III. of the Order in Council, to sell to any other persons than the occupants lands forming portions of runs situated in the Intermediate Districts, it is open to the Government at any time to bring forward for sale the lands contained in reserves formed under section 9 of Chapter II. of the Order in Council, and the rules laid down by the local Government on the subject. Whenever, therefore, any reserve shall *have been made* either in the Intermediate or Unsettled Districts, the land comprised in it, being thus withdrawn from the operation of the provisions regarding leased lands, can be brought forward for sale by auction in the usual way.—I have, &c.

(Signed) E. DEAS THOMSON.

His Honour the Superintendent of Port Phillip.

Attorney General's Office, Sydney, 27th September, 1850.

SIR,—1. We have the honour to acknowledge the receipt of your letter of the 5th instant, No. 50 | 476, referring for our consideration the accompanying communication from the Superintendent of Port-Phillip, relative to the power of the Government to offer for sale portions of runs in the "Intermediate Districts," before the issue of the leases thereof to the occupants.

2. In reply, we have the honour to state, that we think the right

of the Government to sell portions of runs on the "Intermediate Districts," in the present state of things, is at least *too questionable to be asserted.*

3. The present question is not the converse in all respects of that which was submitted to us in your letter of the 9th April last, and wherein we advised, on the 20th of that month, in favour of the power of the Government to allow purchases by parties entitled to leases of Crown lands.

4. We did not indeed, ever in that case, advise that the virtual lessees could claim a right to make such purchases, but merely that the Governor had power to make sales with the concurrence (which was necessarily implied); now the question is, as to the power of His Excellency to do an act in which he cannot expect to have the virtual lessees' concurrence, namely, the putting up of portions of their runs to public competition. The one might be done by the mutual consent of all parties concerned, but it does not follow that the other can be done at the will of the Crown only.

5. But we think there is this further difference, viz. that the privilege intended by the Order in Council to be speedily conferred on the licensed occupants of Crown lands, might not with propriety be withheld by reason of the delay on the part of the Government in issuing the formal leases to which the parties are entitled, and yet on the other hand the Crown and public may be strictly bound by the consequences of such delay.

6. Further, we observe that the express words of Chapter III. section 1 of the Order in Council, present a difficulty which we see no way of overcoming, except, of course, by the actual issue of the leases. These words authorise the Governor to offer portions of "Intermediate runs" for sale only "at the end of each successive year from the date of the lease." Now, although we may consider a term, with its accompanying rights, which is the meaning of the word lease in the section 6 of Chapter II., to be virtually subsisting at the time, we cannot point to any precise date of commencement: nor would an implied or virtual lease be within the meaning of the word as used in the above extract from Chapter III.—We have, &c.

(Signed)                    J. H. PLUNKETT, Attorney-General.

W. M. MANNING, Solicitor-General.

The Hon. the Colonial Secretary, &c. &c. &c.

No. 35.

Colonial Secretary's Office, Sydney, 26th July, 1847.

SIR,—Adverting to the preparatory measures to be taken for giving effect to the expected Order of Her Majesty in Council, respecting the occupancy of Crown lands, I have the honour, by the desire of His Excellency the Governor, to transmit for your information copies of a circular letter which has been addressed to the respective Commissioners of Crown Lands, and of a letter to the Deputy Surveyor-General upon the subject; and I am to request that your Honour will be good enough to cause measures for the attainment of the objects proposed by these communications to be taken in respect of the District of Port Phillip.—I have, &c. (Signed) E. DEAS THOMSON.

### His Honour the Superintendent of Port Phillip.

Colonial Secretary's Office, Sydney, 26th July, 1847.

SIR,—With reference to the evidence given by you before the Executive Council, on the 15th of last month, on the subject of the preparatory measures to be taken for giving effect to the expected Order of Her Majesty in Council, with respect to the occupation of Crown lands beyond the boundaries, I have the honour to inform you, that, with the advice of the Council, His Excellency the Governor is pleased to request your compliance with the following instructions :—viz.

1. That you will propose, with the least possible delay, arrangements for the speedy completion of the surveys of the general features in the squatting districts, with a view to the settlement, by triangulation or otherwise, of points throughout those districts, which would facilitate the surveys of the boundaries of runs.
  2. That you will state, in what manner, and to what extent, the survey department should in your opinion be increased, in order to accomplish, with all practicable expedition, the above-mentioned survey of the general features, and the further more detailed survey which would be necessary for the purpose of enabling the Government to describe with precision the boundaries of runs; and,
  3. That with reference to the statement made in your evidence, that you are sufficiently informed "to lay down general lines of thoroughfare, and sites of towns in all the country, at present

occupied by licensed squatters," you will be good enough to lay down on maps, and submit for the consideration of the Government, such lines of thoroughfare and sites of towns, making about each town a reserve of suitable extent for suburban and cultivation allotments.

I beg to add, that a copy of this communication has been transmitted to his Honour the Superintendent of Port Phillip, with a request that he will cause similar steps to be taken in respect to that district; and that the several Commissioners of Crown lands beyond the limits have been instructed to furnish, in reference to their respective districts, "A nominal return of all licences of runs in each district, showing the separate runs occupied by each licensee, the name by which each run is known, the approximately estimated number of acres comprised in each run, and a general description, so far as may be practicable, of the boundaries of each run;" also, "A return of all lands within each district which are not yet occupied under licence."—I have, &c.

(Signed) E. DEAS THOMSON.

The Deputy Surveyor-General.

### No. 36.

Colonial Secretary's Office, Sydney, 15th October, 1847.

SIR,—Referring to my letter of the 4th September, No. 47 | 452, containing directions for laying down the boundary lines of the Settled and Intermediate districts therein mentioned, I am now desired to inform your Honour that His Excellency the Governor, with the advice of the Executive Council, has been pleased to determine,—

1. That it will not be necessary to lay down at once by actual survey on the ground those lines, at stated distances from certain towns and rivers, which are to divide the settled from the intermediate or unsettled districts; but that it will be sufficient for present purposes to lay them down on the charts, leaving their actual survey on the ground until the arrival of the time when they must be fixed for the purpose of defining the boundaries of the holdings on either side of them; and,

2. That the reserves to be laid out for villages and cultivation lands on the great lines of thoroughfare in the squatting districts shall consist of not less than 9, nor more than 25, square miles.

—I have, &c.

(Signed) W. ELYARD, JUNR.

His Honour the Superintendent of Port Phillip.

## No. 37.

Colonial Secretary's Office, Sydney, 12th November, 1847.

SIR,—I do myself the honour to inform you that the Governor has submitted to the Executive Council your Honour's letter of the 2d September last, No. 47 | 947, with the reports from Mr. Surveyor Hoddle therein inclosed, respecting the arrangements to be made for effecting the surveys requisite for the bringing into effect of the Order in Council of 9th March, 1847, and the laying down of main lines of thoroughfare and town and cultivation reserves in the unsettled and intermediate districts of Port Phillip.

With reference to the subject of the first of Mr. Hoddle's reports, his Excellency has been pleased, with the advice of the Council, to direct the transmission to your Honour, for your guidance, of a copy of the instructions given to the Deputy Surveyor-General on the 1st October last, and at the same time desires me to state that he approves of your making such arrangements, on the general principle of those instructions, as shall appear to you best calculated to effect the requisite surveys with as much expedition and economy as the circumstances will allow.

With reference to the subject of Mr. Hoddle's second letter, His Excellency has desired me to forward to you the copy of the instructions which have been this day issued to the Deputy Surveyor-General, and to request that you will take measures, similar to those therein mentioned, for the laying down of lines of thoroughfare, and town and cultivation reserves, by the surveyors appointed to conduct the feature surveys in the unsettled and intermediate lands of your district.—I have, &c.

For the Colonial Secretary,

(Signed) W. ELYARD, JUN.

The Superintendent of Port Phillip.

## No. 38.

Colonial Secretary's Office, Sydney, 1st October, 1847.

SIR,—With reference to what passed during your attendance on the Executive Council, on the 18th ultimo, relative to the measures to be taken for the survey of the squatting districts, with a view to the issue of leases, I am directed by His Excel-

lency the Governor to request that you will bring forward a specific proposition with respect to each Commissioner's District, for the conduct of the requisite surveys therein, under the following general arrangement :—namely,

To each Commissioner's District (or to two districts combined, if in any case such an arrangement should be practicable and expedient), there shall be assigned a properly qualified officer of the Survey Department, whose own surveying operations shall be limited to the general features of the country, and to the fixing of principal points in connexion with the general trigonometrical survey of the Colony, but whose duty it shall also be to supervise and check the work of the contract surveyors, by whom it is intended that the detailed survey of the boundaries of runs shall be carried out.—I have, &c.

(Signed) W. ELYARD, JUN.

The Deputy Surveyor-General.

### No. 39.

Colonial Secretary's Office, Sydney, 12th November, 1847.

SIR,—I do myself the honour to inform you, that His Excellency the Governor has submitted to the Executive Council your letter of the 30th September last, No. 47 | 318, relative to the laying down of lines of thoroughfare, and town and cultivation reserves, in the unsettled and intermediate districts.

As it appeared, from your communication, that you had not the information on the subject which your evidence of the 15th June last led them to suppose that you possessed, the Council advised that one of the first and principal duties to be undertaken by the officers charged with the feature surveys, should be the selection of leading lines of thoroughfare, with agricultural reserves about them. By leading lines of thoroughfare, the Council did not mean the roads or tracks from one station to another which are now in use, but lines so selected as that they may be confidently expected to continue main roads of the country as its settlement advances.

The reserves should be chosen on these lines in such spots as will afford the greatest advantages of situation, soil, building materials, water, and other elements of the prosperity of inland settlements, and at the same time will interfere as little as possible with the improvements of neighbouring occupants.—I have, &c.

(Signed) W. ELYARD, JUN.

The Deputy Surveyor-General.

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## No. 40.

Colonial Secretary's Office, Sydney, 5th March, 1850.

SIR,—1. Your letter of the 9th January last, No. 50 | 6, requesting to be informed whether the area of twenty-five square miles, which is fixed as the maximum extent of the reserves to be made beyond the Settled Districts, can in some cases be increased, and representing that it is proposed to extend the reserve at Armidale to thirty-six square miles, and that the reserve at Deniliquin, which has been approved by the Council, embraces thirty-five square miles, having been laid by the Governor before the Executive Council, I am now directed by His Excellency to inform you, that the Council cannot recommend that any reserve should exceed the area of twenty-five square miles, which has been approved by the Secretary of State as the maximum.

2. As respects Deniliquin, I am to observe that the approval of the Council was limited to the town, and that they did not record my opinion respecting the adjoining reserve for cultivation; as, however, you report that the reserve laid out by you contains more than twenty-five square miles, the Council advised that it should be reduced to the regulated extent.—I have, &c.

(Signed) E. DEAS THOMSON.

The Surveyor-General.

## No. 41—A.

Mount Macedon, 7th September, 1850.

SIR,—I beg leave to apply, on behalf of myself and my brothers, for a sale to us from the Crown of the following lands, of which we are at present the licensed occupants, situated in the parish of Lauriston, county of Dalhousie—namely, those sections marked upon the Government map—

No. 48,	-	-	-	containing	230	acres.
49,	-	-	-	::	329	::
52,	-	-	-	::	301	::
53,	-	-	-	::	260	::
56,	-	-	-	::	176	::

I would take the liberty of pointing out to your Honour two distinct grounds on which I rest my claim to such sale. As expectant lessees of waste lands of the Crown in the Intermediate Districts, I would respectfully submit that we are entitled to the

same rights as if we were actual lessees, and that we are therefore entitled to demand the sale, under section 6 of the first chapter of the Orders in Council.

By section 8th of the Orders in Council the Governor is empowered to make reserves of land for certain public purposes specified in the 5th and 6th Vict. chap. 36. Now I beg to observe that notice was given in the *Government Gazette* that the sections above named would be sold by public auction at the upset price of £1 per acre. They were withdrawn on the morning of the day appointed for the sale, in consequence of an application made by myself. It cannot, therefore, be deemed an assumption on my part, that the Crown was prepared to sell the lands by public auction to any purchasers for their own private purposes.

I would most respectfully contend that such a sale cannot be a disposing of Crown lands for any of the public purposes mentioned in the statute or Orders in Council; and I would take the liberty to observe, that privileges which are given to us, as lessees of the Crown, by the express words of an Order in Council, cannot be taken away except by the like express words, nor can general words be so construed as to deprive us, by implication, of rights which it was the express object of the Orders in Council to give. Therefore, sir, I contend that we are entitled, under section 6 of the said Orders, to a sale of the above named lands at the price of £1 per acre. As that value has been put upon these lands by the Crown, there can be no reason to suppose that a higher price should be paid for them.

The second ground on which I rest my claim is this: if the Government proposed to offer for sale the said lands, under the powers conferred by chapter 3d of the Orders in Council, I would then claim, under the section 15th, chapter 1st, to exercise our right to "the option of purchasing the land for its fair value in an unimproved state," which has already been determined by the Government at £1 per acre.—I have, &c.

(Signed)      EDWARD WM. JEFFREYS,  
The Superintendent of Port-Phillip.      FOR JEFFREYS BROTHERS.

## B

*The Superintendent to the Colonial Secretary, respecting the claim of  
Messrs. Jeffreys.*

17th September, 1850.

I would request his Excellency's perusal of the inclosed copy of

a letter addressed to me by Mr. Jeffreys, applying, on behalf of himself and brother, to purchase certain land of which they are at present the licensed occupants. I also inclose a similar application from Messrs. Booth and Argyle to purchase certain lots at the upset price; all of which lands were proclaimed for sale on the 6th instant.

1. The object of both the communications, and the cases of Messrs. Jeffreys and Booth and Argyle, are similar, and I beg leave to offer the following general remarks upon them.

2. It is true that the lands in question have been occupied by them respectively, and that they are comprised within the limits of runs, for which applications for lease were duly sent in under the Order in Council.

These lands, nevertheless, lying adjacent to the new township of Kyneton, also originally so comprised in the application for lease of Messrs. Jeffreys, have been recently surveyed and recommended for sale, and in fine duly proclaimed for sale by his Excellency in the New South Wales Government Gazette as country lots at an upset price of £1 per acre.

3. At the time of sale, Messrs. Jeffreys on the one hand, and Messrs. Booth and Argyle on the other, advanced claim to the pre-emptive purchase of the lots of land respectively enumerated by them at the upset price, under the plea that by the tenor of the regulations, and on the ground they have since advanced more in detail, they are entitled to such selection.

4. Under the circumstances it was judged better to withdraw the portions so claimed in both instances, in order that, if there were any reasonable doubt upon the matter, it might be set aside in a proper manner.

5. In sanctioning this withdrawal, however, I intimated my strong conviction, admitting the validity of the act of sale on the part of Government, under the circumstances of the case, that the said claims were groundless, and not to be conceded.

6. The validity of the act of sale must depend on the decision of the law officers.

The lands in question, as before stated, have been covered by the application for lease of the respective parties; and, according to the decision of the law officer in the case of Messrs. Moore and Griffiths, it would not be competent for the Government to dispose of them to the public, in the event of such an act of disposal being

contested, before the issue of leases had placed the withdrawal of these lands from the occupancy of the parties, and the sale clearly within its power.

7. However, no opposition having been raised in any form to the sale of these particular lands, it may therefore be assumed that they are, to all intents and purposes, withdrawn from the occupation of the claimants, and reserved from being comprehended in any lease issued to them hereafter.

8. To lands so situated it appears to me that the applicants even now put forth no valid claim to a pre-emptive right of purchase under the provisions of an Order in Council.

Had they at an earlier date even advanced their claim, there might have been no difficulty, under His Excellency's notice of the 28th June, 1850, to have allowed them to purchase; but even in that case certain specified conditions must have been complied with, and Government was by no means bound to concede them pre-emption at a minimum price, which, however properly fixed upon when the land was to be exposed to public competition, might not have been held a sufficient equivalent if sale were to be effected without such competition.

With these observations I submit the case to His Excellency's consideration.

(Signed) C. J. LA TROBE.

## C

Colonial Secretary's Office, Sydney, 17th December, 1850.

SIR,—1. I had the honour duly to receive your Honour's letter of the 17th September last, No 50 | 288, respecting the claims of Messrs. Jeffreys and Messrs. Booth and Argyle to purchase certain portions of Crown land by pre-emption at the upset price.

2. The circumstances affecting the lands in question I gather from your Honour's letter to be, that they are situated in an Intermediate District, that they are included in the licensed runs of the above-named gentlemen respectively, and are covered by their demands for lease; but that, being in the immediate neighbourhood of a Government township, equally included in their demands for leases, they were proclaimed for sale by public auction as country lots, before any claim to pre-emption was attempted to be asserted, but afterwards withdrawn. Messrs. Jeffreys and Messrs Booth and Argyle now claim to exercise a

pre-emptive right in respect to these lands, and to obtain them at the upset price named in the proclamation for sale.

3. For reasons assigned in your Honour's letter above quoted, and which it is not necessary here to repeat, your Honour sees cause to question the right of these gentlemen, not only to the obtaining of the lands at the upset price, but to the exercise of any pre-emptive right whatever in respect to them.

4. As a similar question was at the time under the consideration of the Crown law officers, that letter was also referred to them, and I am now enabled to transmit, for your Honour's information, a copy of their reply.

5. Without quoting at length the arguments adduced in the report of the Attorney-General and Solicitor-General, it may be sufficient to state that those officers, whilst admitting the actual power of the Government to sell the land in question to the highest bidder, are yet of opinion that such sale would not be in accordance with the "spirit of Her Majesty's Order in Council;" and as the Government can have no desire to assert extreme rights, but, on the contrary, has every disposition to act up to the spirit of the Order in Council, his Excellency conceives that the claims of the *gentlemen referred to, and every other pre-emptive claim of the kind which is not overruled by a strong public necessity, should be conceded.*

6. As is to be inferred from the concluding portion of your Honour's letter, that the lands in question are really above the minimum value, I may remark, that the Order in Council of March, 1847, not less than the local regulations of 28th June last, provide in such a case for the assessment of the value of the land, and his Excellency agrees with the law officers in thinking that the claimants in this case are not entitled to the land at £1 per acre, simply because it was proclaimed for sale by auction at an upset price of £1, but the price should rather be what the Government might reasonably expect to realise by a sale with public competition.—I have, &c.

(Signed) E. DEAS THOMSON.

The Superintendent of Port Phillip.

## D

Attorney-General's Office, Sydney, 24th October, 1850.

SIR,—We have the honour to acknowledge the receipt of your

letter of the 17th instant, No. 50 | 871, requesting our report upon the respective applications of the Messrs. Jeffreys and Messrs. Booth and Argyle, which were transmitted in the accompanying communication from His Honour the Superintendent of Port Phillip, to be allowed to purchase at the upset price Crown lands of which they are at present the licensed occupants.

In reply, we have the honour to state, that the question involved in this correspondence is one of considerable difficulty and doubt. It is, therefore, not without hesitation that we express our opinion, which is, that although the Governor has the actual power to cause these lands to be sold to the highest bidder, yet that such sale would not be in accordance with the spirit of Her Majesty's Order in Council.

The proposed sale would not be such as is contemplated by Chapter III. because it cannot be said to occur at the end of any year of the lease; because sixty days' notice have not been given; and because it is not in contemplation to give the party entitled to the lease the right of pre-emption.

The justification of such sale would therefore seem to depend upon section 9 of chapter 2. The only words in that section which could possibly apply to this case, are those which authorise the sale of lands comprised in any run for any other purposes of public defence, safety, utility, convenience, or enjoyment, or for otherwise facilitating the improvement and settlement of the Colony. These general words must be construed with reference to the *specific enumeration of the purposes which they follow*; and as all of these, with one exception, resting upon peculiar grounds, (that relating to the working of mines, which of course are not comprised in a pastoral lease,) are of a general public character, we are strongly inclined to think these words can neither in law, nor by the ordinary rules of criticism, be held to authorise the reservation of an extensive track of land for sale as Country Lots. Indeed, it is only the words "for otherwise facilitating the improvement and settlement of the Colony" that are at all capable of any other interpretation. Under these words we think it is competent to the Governor to reserve sites for townships and villages, which are *absolutely essential* to the settlement of the Colony, and to the general convenience of a surrounding district; but there does not appear to be the same public necessity for withholding adjacent country lands from lease in the Intermediate

Districts. The power to offer for sale at the end of each year of such leases (the early issue of which is contemplated by the Order in Council), the whole or any part of the lands comprised in them, is amply sufficient to enable the Governor to supply the demand for cultivation lands in the neighbourhood of such towns and villages, *and is little affected by the lessee's right of pre-emption at the fair value.* In the Unsettled Districts the case might be different, for it may concern the public materially not to have all the lands near inland towns and villages so completely locked up from purchase, during a lengthened period, as they would be by being comprised in the lease appropriate to those districts. It follows, from what we have said, that the strong inclination of our opinion is in favour of the claims to pre-emption by Messrs. Jeffery, and Messrs. Booth and Argyle; but we think the claim to purchase at the upset price declared for the intended public sale clearly unfounded. They must pay "the fair value of the land in an unoccupied state," for the ascertainment of which, the Government should require a valuer to be appointed according to section 3 of Chapter II. The price would, therefore, rather be what the Government might reasonably expect to realise by a sale with public competition, than the minimum price named for such a sale.—We have, &c.

(Signed)      J. H. PLUNKETT, Attorney-General.  
W. M. MANNING, Solicitor-General.

## E

Superintendent's Office, Melbourne, 20th January, 1851.

SIR,—1. I have the honour to acknowledge the receipt of your letter, dated the 17th ultimo, No. 50 | 800, in reply to my letter of the 17th September last, No. 189, respecting the claims of Messrs. Jeffries and Messrs. Booth and Arglye to purchase certain portions of Crown lands, by pre-emption, at the upset price, as set forth and objected to by me in my letter to you of the 17th September last, on the ground that these particular lands were not open to pre-emption, but should be disposed of by auction.

2. Reference having been made to the law officers of the Crown in this matter, and an opinion received, of which a copy is inclosed to me, I am instructed that, inasmuch as it is held that such sale would not be in accordance with the spirit of Her Majesty's Order in Council, and as the Government can have no

desire to assert extreme rights, but, on the contrary, to act up to that spirit, the claim put forth by Messrs. Jeffries and Messrs. Booth and Argyle, and every other pre-emptive claim of the kind which is not overruled by a strong public necessity, should be conceded.

3. I must at once state, that I have been totally unprepared for this decision, and entertaining, as I do, so different an impression of the spirit and intention of the Orders in Council, and of the consequences of any such construction as that given to them in this instance by the law officers of the Crown to the welfare of the district, I am justified in hesitating to carry this decision into effect, and urging upon his Excellency the propriety of a reconsideration of the question.

4. I would at once admit, that the justification for such sale must depend upon the ninth section of the second chapter of the Orders in Council, and upon the authority given to the Governor in the clause which empowers him to make reserves for certain specific purposes, or such as public defence, safety, utility, convenience, or enjoyment, or for otherwise facilitating the improvement or settlement of the Colony.

5. The law officers of the Crown do not appear to entertain an opinion that the right of the Governor, under this clause, to make town or village reserves (either in the intermediate or unsettled district, or, indeed, reserves of any character, within the limits of the authority given) is set aside by the fact, that the lands on which such reserves are made, may have been covered by the licence of the claimant for lease at the time of the promulgation of the Orders in Council, and, as a matter of course, included in his application for a lease formally handed in, in accordance with the local regulations framed in consequence, in the great majority of instances within six months.

6. It is clear that a determination and notification of all such reserves, throughout the widely extended and only partially surveyed district, in time to admit of formal exclusion from such application within this interval, was quite impossible. I presume that, therefore, it is allowed, that until the actual issue of leases, it is in the power of the Governor to make such reserves, and that such reserves shall be held withdrawn from the provisions regarding lands covered by such leases, when issued.

7. The main point to be determined may be, therefore, in how

far it may be expedient or inexpedient, on public grounds, and consonant with both the letter and spirit of the Orders in Council, to exercise the power to make such reserves, and thereby withdraw lands of greater or less extent from the provisions in favour of future lessees, whether in the unsettled or intermediate districts.

8. It is urged, in the paper before me, that, however competent it may be for the Governor to reserve sites for townships and villages, which are absolutely essential to the settlement of the Colony, and to the general convenience of a surrounding district, that the words "for otherwise facilitating the improvement and settlement of the Colony" would scarcely be held to justify the Governor from authorising the reservation of an extensive track of land as country lots; and, moreover, that there does not appear to be the same public necessity for the withholding country or agricultural lands from the lease in the intermediate districts, viewing the power conferred upon the Governor with respect to the withdrawal and sale of land under lease, as in the "unsettled district," where, for obvious reasons, extended reserves may be called for.

9. With regard to the proposed limitation of the reserves in the intermediate districts to town and village reserves, I think I am justified in saying, that up to this time no such limitation has been contemplated by the Council.

A reference to past correspondence will show, that the formation of country or agricultural as well as town and village reserves throughout the country, lying beyond the settled districts, whether strictly intermediate or unsettled, has been always contemplated—that frequent reference has been made to them, and rules laid down for the guidance of the Superintendent and of the Survey Department, both in this and the middle district, in forming them.

10. I must state freely, that I have always regarded the formation of these reserves, wherever the public requirements might call for their formation, and thereby providing, as far as our partial knowledge of the superficial details of the district, and foresight, might enable us to do, for the public benefit and real interests, was an imperative duty. I have never supposed that by so doing we could be setting aside any real or just claim of the original occupant of such lands for depasturing purposes only, his occupancy having hitherto been solely authorised and considered admissible for that particular purpose.

11. Neither the letter nor the spirit of the Act of Parliament, and the Orders in Council founded upon it, seemed to me to hold out to such licensee any advantage beyond that which he might justly and fairly claim—assured occupation for depasturing purposes solely for a certain term—a proper degree of encouragement to aid in the settlement and more fixed occupation and improvement of the District, by the offer of a reasonable inducement to become the purchaser of the land, on favourable terms—and compensation for improvements, in the event of the improved land being brought into the market, and falling into other hands. To secure him these advantages, a departure from the established system of the sale of Crown lands within the Colonies, by public auction, is to a limited extent sanctioned. And here I may be permitted to observe, that the experience of many years would appear to have so fully indicated the wisdom of the adoption of the system of sale by auction, that any unnecessary departure from it would be deprecated on all hands. It has generally been acknowledged to secure to the public what may in the aggregate be considered the fairest value for land sold at any time and under ordinary circumstances, at the same time that it relieves the Executive Government from the weight of responsibility, if not odium, which must be entailed by any other system less open and public in its operations.

12. I think that the public, on the one hand, have a right to evince extreme jealousy on this point, and to require that the system should not be unnecessarily set aside; and that, on the other, the Government, for its own sake, should not lightly admit of such departure.

13. To act upon the construction now put upon the spirit, if not the letter, of the Orders in Council, and upon the claims of the future lessees of Crown lands beyond the settled district of this portion of the Colony, would be, in my view, neither more nor less than to relinquish and set aside that just and open system of sale, by public auction, in the case of the large majority of lands, the value of which would be above the average value of such as might be occupied for depasturing purposes solely, and to substitute in its place a system of sale, by private valuation, which, however conducted, may be held open to certain objection, and which must be regarded as an expedient evidently only in-

tended to be had recourse to to a limited extent, and under very peculiar and difficult circumstances.

14. My view is, that it is both in the power and the duty of the Government to use timely foresight, as far as may be, under circumstances of obvious disadvantage, and in the intermediate districts, comprising as they do lands within from fifteen to twenty-five miles of most of the principal townships, as well as in the "unsettled," to remove from future occupation under lease for pastoral purposes, and from the operation of the provisions in favour of the lessees, inclusive of the right of pre-emptive purchase at a valuation, such portions of land, whether large or small, whether adapted to the formation of towns and villages only, or suitable for agricultural improvements, as the public may have a just claim to see brought into the general market, to have thrown open to public competition when required, and to hold when purchased under grant from the Crown.

In no other way and by no other measures can the proper settlement and improvement of the country be with certainty facilitated and promoted.

15. His Excellency and the Executive Council may rest assured, that to adopt the alternative proposed, and to decide that in this district "reserves in the intermediate districts" are to be confined to a bare section, more or less, here or there, for a township or village, all other lands, however valuable before as well as after the issue of leases, being held subject to the pre-emptive right of purchase of the original applicant for lease, and obtainable whenever disposed of by the Government at an evaluation, will be to cripple the steady occupancy and proper advancement of the Colony, and to render the agricultural improvement of the country subordinate to and dependent upon the will of the lessees of Crown lands, and of those who are sure to enter into speculation with them. Money is plentiful in the Port Phillip district, and I am well assured, that if the decision recently arrived at is confirmed, that in the multitude of instances measures will be taken to secure, by the exercise of the conceded pre-emptive right, lands in every quarter which ought, by timely reserve from the operation of the provisions in favour of such licencees, under the eleventh chapter of the Orders in Council, to have remained in the hands of the Government to be brought

into the market, and disposed of at public auction, whenever the public requirements might call for that measure.

16. The Government may, it is true, decline to bring such lands into the market or dispose of them.

It must, therefore, risk the alternative, either of refusing to sell, although the sale of land in such or such quarter appears really called for by the public, because the public may obviously be defeated by the unexpected advance, in the sale room, of a claim to the pre-emptive purchase, as in the instance which has given rise to this correspondence, or it may, in the absence of any assignable ground for refusal, consent to such sale, however convinced that the public requirements are not directly promoted thereby.

17. Before I conclude these remarks, I would refer to your letter of the 28th of December, 50 | 823, received since that which I have now the honour of acknowledging came to hand.

I am in that letter instructed that, under the opinion of the Crown law officers, the right of the Governor, under Chapter III. of the Orders in Council, to offer for sale portions of runs in the intermediate districts, before the issue of the lease thereof to the present occupant, is at least too questionable to be asserted: but I am advised that, although this is the case, it is open to the Government, at any time, to bring forward for sale the land contained in reserves formed under section 9 of Chapter II. of the Order in Council, and the rules laid down by the local Government on the subject. Whenever, therefore, any reserve shall have been made, either in the intermediate or unsettled districts, the land comprised within it being thus withdrawn from the operation of the provisions regarding leased lands, can be brought forward for sale, by auction, in the usual way.

I cannot reconcile this instruction with the opinion and decision in your letter of the 17th December last, 50 | 800, and its enclosure; and I would gladly think that I am under some misconception in relation to these matters, which further consideration and explanation may remove, and that I may be relieved from the difficulty in which I find myself placed.

I would earnestly request his Excellency to allow the statement I have felt it my duty to make to receive such consideration as it may appear entitled to.—I have, &c.

(Signed) C. J. LA TROBE.

The Hon. the Colonial Secretary, Sydney Microsoft ®

## F

Colonial Secretary's Office, Sydney, 10th March, 1851.

SIR,—In reply to your Honour's further letter, No. 51 | 16, of the 20th January last, on the subject of the right of pre-emptive purchase claimed by Messrs. Jeffries and Booth and Argyle, over land now in their occupation in the Intermediate Districts of Port-Phillip, I do myself the honour, by direction of his Excellency, to transmit to you the annexed copy of the opinion of the Crown law officers, recommending that the matter be postponed for the determination of the Governor and Executive Council of Victoria.—I have, &c. For the Colonial Secretary,

(Signed) W. ELYARD, JUN.

His Honour the Superintendent of Port Phillip.

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Attorney General's Office, Sydney, 1st March, 1851.

SIR,—1. We have the honour to acknowledge the receipt of your letter of the 7th ultimo, 51 | 98, referring to ours of the 24th October last, on the subject of the application of Messrs. Jeffries, and Messrs. Booth and Argyle, to purchase at the upset price certain portions of Crown lands at Port-Phillip, and inclosing a further letter from the Superintendent of Port Phillip, soliciting a reconsideration of the decision arrived at in the case.

2. In reply, we have the honour to state that the further letter of the Superintendent of Port Phillip has added to the doubts which we expressed in our former communication on the subject; but we are more particularly struck with this consideration, that his Honour's local knowledge appears to have produced in his mind an opinion to the effect, that the claims of Messrs. Jeffries, &c. are, in fact, "overruled by a strong public necessity."

3. Under these circumstances we would suggest, that, as the district of Port Phillip is about to be completely separated from this territory, and withdrawn from the jurisdiction of New South Wales, it will be proper that his Excellency and the Executive Council should abstain from coming to any final decision upon the point, and should leave it to be disposed of by the future Government of Victoria, in such manner as local circumstances and considerations, or the peculiar views of that Government, may require.

4. It may be desirable that, in the meantime, the leases of these claimants, and of others whose licensed occupation extends over

lands which the Superintendent of Port Phillip may think it advisable to exclude from their leases, should be withheld. But probably none of the Port Phillip leases will, in fact, be issued before the separation of the Colonies.

5. It would perhaps not be proper for us to accompany the above suggestions with any further general observations upon the construction of the Order in Council; but we may remark that, in preparing the drafts of the leases, we have inserted an express reservation of power to sell, not only towns and villages, but also adjacent cultivation allotments, which we did because we thought the power of great importance to the public welfare, but *not so clearly within the words of the 9th section of chapter 2d as was to be desired*.—We have, &c. (Signed) \*

The Hon. the Colonial Secretary.

## G

Crown Solicitor's Office, Melbourne, 12th January, 1852.

SIR,—In reply to your letter of the 1st day of October, 1851, inclosing certain documents for the perusal and opinion of the Law officers of the Crown, with his Excellency the Lieutenant Governor's minute thereon,—I have the honour to transmit the opinion asked for.—I have, &c.

(Signed) HENRY F. GURNER,

The Hon. the Colonial Secretary.

Crown Solicitor.

We have perused the correspondence submitted to us by his Excellency. As the subject is one of no small difficulty, affecting a variety of private rights, and involving matters of extreme importance to the public interest, we deem it necessary to premise some general observations.

The Orders in Council have the same effect as the statute on which they are founded.

The general words, “or for any other purpose of public defence, safety, utility, convenience, and enjoyment,” occurring in the 9th section of the second chapter, must, according to the ordinary rules of construction, be interpreted with reference to the *preceding particular instances*.

Lands, the subjects of those instances, are all to be appropriated to public purposes, in the enjoyment of *which every person may*

*participate.* They are converted, by the "grant, sale, or other disposal," mentioned in that section, as it were, into public property, and dedicated to the use of the *inhabitants generally*.

So far the provisions of this section resemble those of the statute relating to the sale of Crown lands, but other and more comprehensive terms have been inserted, to meet, as it would appear, the progressive expansion of the Colony. The former provisions relate to objects of a particular nature; the latter terms, obviously introduced with a view of providing for a class of wants of no less public concern, and which circumstances may render more or less extensive, contain a power of a different nature, unconnected with, and to be construed independently of, those provisions.

We may reasonably suppose that the framers of these Orders anticipated the inconvenience to the public likely to arise from so large a portion of the country as the Unsettled Districts being locked up for sale for many years, and that demands would be made for lands to be applied to purposes different to those merely pastoral.

To obviate this inconvenience, and "meet" these demands, it appears to us that the Governor has been authorised to dispose of such portions as may be required "for the settlement and improvement of the Colony." The general wants of the community may call for the establishment of inland towns and villages, and the necessities of their inhabitants may absolutely require that the agricultural land immediately adjacent should be sold. We consider that the Governor, when convinced of an *absolute necessity*, would be justified in selling, or reserving for immediate sale, such portions of the lands in the Intermediate or Unsettled Districts as may be required for the formation and support of these towns or villages. But we are of opinion that it would not be in accordance with the correct interpretation of this section, nor within the spirit of the Orders in Council, were the Governor, without reference to the sites of towns or villages, or present and pressing public requirements, to reserve for sale portions of lands in these districts, with a view of meeting the *prospective* wants of the community. Power to make such reserves would, as it appears to us, in effect, place merely at discretion the right of the occupant to a lease for a certain number of years, so clearly recognised by the

Orders in Council, and thereby frustrate the principal object for which those Orders were framed.

We are clearly of opinion that the lands to which we have alluded are not subject to the pre-emptive right of the occupant, nor should they be included in a lease; but until an actual sale the possession of such occupant should not, as we conceive, be disturbed. He is entitled to a lease, subject to the conditions contained in the 9th section; and, until the enforcement of those conditions render an interference necessary, he should be permitted to exercise any former rights he may have enjoyed.

(Signed) WILLIAM F. STA WELL,

Attorney-General.

REDMOND BARRY,

Solicitor-General.

12th January, 1852.

#### H.—OPINION.

We have considered the subject of Her Majesty's Orders in Council, 9th March, 1847, submitted to us by order of His Excellency, with reference to—

- I. The mode in which lands should be described in leases to be issued under these Orders.
  - II. The power of the Governor, after the date or issue of a lease, to reserve and dispose of any land comprised in such lease, for the purpose mentioned in sec. 9, c. 2.
  - III. The right of the lessee to claim the option of purchasing any *such* land at its fair value in an unimproved state previous to its being disposed of.
1. We can foresee the probability of much inconvenience arising to the lessee, if the lands are described generally as lands known by a particular name, and in the actual occupation of a particular person. The lessee might experience great difficulty in proving the precise limits, were he compelled to remove a trespasser. But we are of opinion that such a description, if the land can be thereby identified, is sufficiently legal. The rights of the Crown might be protected, and any difficulties of determining in what lease particular lands were contained might be obviated, by inserting in the lease a proviso as to the mode by which, as between the Crown and the lessee, such limits should be ascertained.
2. We are of opinion that lands comprised in a lease may, after the date or issue of such lease, be disposed of by the Governor

for any of the purposes mentioned in sec. 9, cap. 2. The position or extent of lands required for some of those purposes—railroads, for instance—could not be anticipated, or the necessary reserves made, previous to the issue of the leases. The power contained in this section was conferred on the Governor, to enable him, during the currency of the lease, to dispose of any lands required for such purposes.\*

3. We think that *such* lands are not subject to the pre-emptive right of the occupant. To admit such a right would defeat the obvious object of the section.

(Signed) WILLIAM F. STA WELL,

Attorney-General.

JAMES CROKE,

Solicitor-General.

18th August, 1852.

## No. 42.

*To His Excellency CHARLES JOSEPH LA TROBE, Esq. Lieutenant-Governor  
of the Colony of Victoria and its Dependencies, &c. &c.*

Memorial of the undersigned licensed occupiers of Crown lands in the Colony of Victoria,—

Sheweth,—1. That the tenure by which your Memorialists hold the right of depasturage of the waste lands of the Crown does not possess the same fixity of character which belongs to other species of property, in consequence of which doubt and incertitude are introduced, and improvements are arrested.

2. That the Act of Parliament 9 and 10 Vict. c. 104, which authorises Her Majesty to demise the waste lands of the Crown for any term of years not exceeding fourteen years, and also the Orders in Council founded thereon, bearing date the 9th day of March, 1847, have not yet been acted upon.

3. That your memorialists cannot avoid the apprehension that the difficulties (of whatsoever nature they may be) which have delayed the execution of these Orders, may be of a permanent character, so as virtually to defeat the benefits intended to be conveyed to your memorialists by the Imperial Parliament, and by Her Majesty in Council.

4. That as it is of the utmost importance to the pastoral inter-

\* The above refers only to public purposes.

rests that substantial effect should be given to the above Act of Parliament and Orders in Council, your memorialists respectfully submit that leases should be issued in which the reputed boundaries of each respective run should constitute the description of property intended to be demised, reserving however the right and claims of adjacent settlers *inter se*, which should not be compromised by any such descriptions contained in any such leases, but be determinable by law in the regular courts of the Colony.

5. That as it is impracticable to ascertain with any certainty the capacity of particular stations to carry any specified amounts of stock, and as every method of computation must be liable to various sources of error, which might hereafter impeach the accuracy of those concerned, and lead to many discrepancies, your memorialists suggest that the rent to be reserved should not in any case be a fixed rent, but be determinable for each ensuing year in manner following: viz. Every settler should be obliged to render half-yearly returns of stock to the Treasury, and the average of such half-yearly returns should constitute the basis on which to compute the rent for the year ensuing.

6. That believing the immediate issue of leases to be both practicable and beneficial, your memorialists respectfully urge on your Excellency that measures may be taken to carry the same into effect. And your memorialists, &c. &c.

(Signed) J. F. PALMER, Bonigalla,

And 85 other signatures of individuals and firms.

*To His Excellency Charles Joseph La Trobe, Esquire, Lieutenant-Governor.*

The Memorial of the undersigned licensed occupants of Crown lands in the Unsettled District of Murray,

Respectfully sheweth,—

1. That the Orders in Council under which your memorialists now hold their licensed runs came into force, and have had the effect of law, since the 7th October, 1847.

2. That by the 3rd section of Chapter I. of the said Orders in Council, the local Government had the power, at any time previous to the 31st December, 1848, to proclaim and fix the boundaries of any county or counties, and that such county or counties should come under the regulations applicable to land situated in the Intermediate Districts.

3. That in accordance with the power so vested in the Local Government, certain counties were proclaimed and their boundaries defined. The remainder of the waste lands of the Crown (save the Settled Districts) consequently came under the rules and regulations applicable to the Unsettled Districts.

4. That by the 11th section, Chapter II. of the said Orders in Council, your memorialists were entitled to demand leases for fourteen years of their respective licensed runs.

5. That your memorialists have, in accordance with the Government notice, bearing date 7th October, 1847, demanded leases of their respective licensed runs accordingly.

6. That your memorialists have patiently waited since that time the issuing of their leases, in accordance with the said Orders in Council, but the Government have from time to time delayed issuing the same, notwithstanding the pledge of his Excellency the Governor, as contained in the concluding paragraph of the Government notice of the 7th October, 1847, which runs thus:—  
“ His Excellency, however, desires at the same time to intimate, that all practicable despatch will be used for the purpose of putting occupants of Crown lands in possession of the leases to which they may be entitled under Her Majesty’s regulations.”

7. That your memorialists have learned, from a letter addressed by the Colonial Secretary to Mr. William Forlonge, of Euroa, that your Excellency assumes to the Lieutenant-Governor the right of offering for sale any portion of a squatter’s run in the Unsettled District which your Excellency may consider fit for agricultural or other purposes.

8. That your memorialists earnestly, yet respectfully, protest against such an assumption of power on the part of the Lieutenant-Governor, as being an infringement of rights conceded to the squatter by the Orders in Council, and a direct violation of the pledge of our most Gracious Queen, conveyed as that pledge is to the licensed occupants of Crown lands in the Unsettled Districts, by Her Majesty’s Secretary of State for the Colonies.

9. That if any doubt as to the true intent and meaning of the Orders in Council (in so far as the Unsettled Districts are concerned) could exist, it is most unequivocally set at rest by the following extract from a Despatch from Her Majesty’s Secretary of State to the Governor of New South Wales, when calling His Excellency’s attention to the power given to the Local Govern-

ment by section 3, Chapter I. of the said Orders :—“ Lands in the Unsettled Districts, according to these regulations, would be absolutely out of the power of the Crown, and be rendered unavailable for settlement, for the long period of fourteen years: it would therefore be absolutely necessary that no lands should be classed except those which, from the remoteness of their situation, you have reason to feel assured will not be required for sale to the public for the purpose of permanent occupation during the time for which the lease will be granted. I have to instruct you to be most particular on this point.”

10. That your memorialists would respectfully impress on your Excellency the justice, policy, and expediency of at one causing the leases to issue in the Unsettled Districts, in conformity with the pledge of Her Majesty’s Secretary of State to the licensed occupant of lands in those districts.

11. That your memorialists would further state they are willing to receive their leases as binding on the Crown only, leaving the lessee to establish his claim to his run against any other intruder in the law courts of the Colony. At the same time, if it is practicable to establish any competent tribunal to which to refer any disputed boundaries, your memorialists would give their most favourable attention to any suggestion on this point which might emanate from your Excellency.

And your memorialists, as in duty bound, will ever pray.

(Signed)

W. FURLONGE,  
And 18 others.

### No. 43.

Minute of Arguments addressed to His Excellency the Lieutenant Governor, on the following points, at an audience afforded to a number of squatters, on the 3d of August, 1852 :—

I. That the leases of runs should date from the time of their issue.

II. Or, if that should not be conceded, that they may bear even date with leases issued by the New South Wales Government.

III. Or, that at least the question should be referred to the Governor-General before any steps are taken in the matter, that the rights of this class of the community may receive the fullest consideration.

IV. That it is an infraction of the Orders in Council to make agricultural reserves, particularly in the Unsettled Districts.

1. That the leases of runs should date from the time of their issue.

Although it should be legally untrue that the squatter has possessed a lease since the proclamation of the Orders in Council, it is contended that he has virtually enjoyed every benefit intended to be conferred by that instrument, and that equitably the leases should bear even date with the proclamation of the Orders in Council, or, at least, from the 31st of December, 1848, which defined the period within which the distribution of districts was to be made.

But in order to arrive at a just opinion on this subject, it is necessary to consider what effects have followed from the delay in the issue of leases, a delay in no respect attributable to any laches on the part of the squatter. These effects are of two kinds, directly diverse from each other.

By reference to Lord Grey's Despatch, dated 29th November, 1846, it will be seen that the special object contemplated by the new Orders in Council was to present inducements to the settler to make permanent improvements on his run, so as to accommodate a larger amount of stock; but it is notorious that few persons have engaged in such enterprises, from the uncertainty of their position, and the doubts which they have justly entertained as to the issue of leases, and consequently they cannot be said to have enjoyed all the privileges intended to have been conferred upon them; neither have they been able to dispose of their stock and stations to the same advantage, in the public market of the Colony, as they would have done had the faith of the Government been fulfilled.

2. On the other hand, there are persons who have placed a more unlimited faith in the pledges of the Government, and have made improvements on their runs, or purchased new runs, on the expectation of a definite and guaranteed enjoyment for a number of years. Such cases present examples of vested interests created on the faith of the Crown, and ought not to be disturbed on any consideration of mere expediency, without an equivalent compensation.

The title to land in fee under the pre-emptive right, and the title to leases, rests on the same authority; from whence it follows,

that the latter may not be disturbed or overborne from considerations of public conveniency, without the admission of an equal power to interfere with the titles given by the Crown to the former.

II. Or, if that should not be conceded, that they bear even date with leases issued by the New South Wales Government.

The Orders in Council apply equally to the two Colonies, and it seems only reasonable that the older and superior Government, under which the Orders themselves were issued, should take the lead in this question. There would be an obvious inconsistency, and it would afford, moreover, a fruitful source of disputation hereafter, if different dates were adopted in the two Colonies, as it would be impossible, in such a contingency, to deny either that one had been unjustly favoured, or the other unjustly treated. The circumstances of the two Colonies, although they should be much more different than they are, cannot be allowed to modify an abstract right.

III. Or, that at least the question should be referred to the Governor-General before any steps are taken in the matter, that the rights of this class of the community may receive the fullest consideration.

The blame, if blame there be, of the delay in the issue of leases, rests with the superior Government, on which account it seems proper that the Government should first be consulted, that the squatter may receive such just consideration as the circumstances of the case may seem to demand, and that he may, after having exhausted all other resources, pursue his claim before the Queen in Council.

IV. That it is an infraction of the Orders in Council to make agricultural reserves, particularly in the Unsettled Districts.

This proposition may be considered under two aspects.

1. As to the legality of making such reserves.
2. As to the policy of doing so.

I. The legality of making agricultural reserves involves also two questions.

1. As to the legality of so doing before the issue of leases.
2. As to the legality after the issue of leases.

1. Before the issue of leases.

The Act of 9 and 10 Vict. c. 104, came into operation in this Colony on 1st May, 1847. Section 10 of this Act restricts Her

Majesty from delegating any power to Governors of Colonies to alter the rules and regulations respecting the occupation of waste lands of the Crown, referred to in section 6.

The Orders in Council, made in pursuance of Section 6 of the above Act, came into operation in this Colony on 7th October, 1847.

Chapter I. section 3 of these Orders limits the time within which any other county or counties may be fixed and proclaimed to 31st December, 1848.

It is observable that nothing whatever is said respecting agricultural reserves; and it is further observable, and it is a remarkable circumstance, that the power proposed to be conferred on the Legislative Council, in the first draft of these Orders, to alter these divisions, was in the second draft revoked (Chapter 1, Section 3, Draft Orders). Thus evincing a great anxiety to render irrevocable the pledge when once given, and to render any future interference with it impossible. The same authority also expressly prohibits the Governor's interference in the alteration of the boundaries after they are once fixed.

Lord Grey's Despatches afford a full and complete interpretation of the intention of the framers of these Orders. In his first Despatch, dated the 29th November, 1846, accompanying the Draft Rules, when it was proposed to impose on the Governor the task of classifying the lands of the Colony, he writes—“There is, as you will observe, a very material difference between the conditions on which it is proposed that land should be held in the three different classes of districts which it is intended to establish, and the nature of this difference is such as would make it necessary that you should act with ‘extreme caution’ in classing the lands of the Colony in one or the other of these districts. Land in the Unsettled Districts, according to these regulations, would be put absolutely out of the power of the Crown, and be rendered unavailable for settlement, for the long period of fourteen years. It would therefore be absolutely necessary that no lands should be so classed except those which, from the remoteness of their situation, you have reason to feel assured will not be required for sale to the public for the purpose of permanent occupation during the term for which the leases will be granted.”

And that this was the view of the Secretary of State for the Colonies appears beyond doubt from the concluding paragraph of

the same Despatch, which evidently regards the Settled and Intermediate Districts as the only ones available for public sale.

"I have to instruct you to be most careful on this point, since it would be a source of very serious injury, both to the Colony and to the Mother Country, if at the end of eight or ten years it should be found that the progress of emigration were checked by the inability of the Crown to find lands to sell to intending emigrants. You will recollect, also, that as the proposed regulations with regard to Intermediate lands will secure to the actual holder a right of occupation for eight years, unless they are previously required for purchase, and will also assure to him, on giving up possession, a right to the value of his improvements, there would be the less occasion for placing in the class of Unsettled Districts any lands as to which even a doubt can be entertained."

The same Minister, in his Despatch, dated the 30th March, 1847, accompanying the amended rules, after therefore mature reflection, and after an interval of four months, writes,— "I have in my former Despatch explained to you the great importance which I attach to avoiding an error of this kind, with a view to the interests of future settlers, and how great my anxiety, that no undue extension should be given to the lands to be defined as Unsettled, and which would thus be put out of the power of the Crown, and rendered unavailable to the public by purchase, for the long period of fourteen years."

This receives further confirmation from a subsequent paragraph, which relies on the sufficiency of the Intermediate lands to meet the public exigencies during the continuance of the leases,— "You will perceive that the intermediate lands have been so described as to provide for the probable course of settlement along the banks of navigable rivers, and also for the improvements which may hereafter arise, of any railways constructed in the Colonies," where, in the concluding words, especial reference is made to Chapter I. Section 10 of the rules and regulations.

The "extreme caution" enjoined by the Colonial Minister on Sir Charles Fitz Roy, evinces, as strongly as it is in the power of language to do, the inviolability attached to the public faith when once pledged. From the foregoing observations may also be deduced the following conclusions:—

1. That the Queen, as contradistinguished from the Queen in Council, possesses no power to alter the distribution of Districts

when once fixed and proclaimed, or to delegate such power to others; and that such power (although conferred in the first draft) has been deliberately withheld from the Legislative Council of the Colony.

2. That the power of the Governor to class the Intermediate and Unsettled lands, extended only to counties, and that such counties could not be proclaimed after the 31st December, 1848.

3. That not one word is said, nor may anything be inferred from incidental expressions, of village or agricultural reserves; but, on the contrary, every supposable exigency is presumed to be provided for by the Settled and Intermediate lands, and, after the issue of leases, by the ninth and tenth sections of the rules and regulations.

4. That this restriction of power to make village and agricultural reserves, applies equally to the Intermediate and Unsettled Districts, but in a particular manner to the latter; for, as it is competent, at the end of any given year, to put up the whole or part of any run comprised in the Intermediate Districts, no injury is virtually inflicted by proclaiming such reserves by anticipation, except such as arises from the withdrawal of the best lands from the pre-emptive right.

5. That on the supposition of this power being exercised, it is clearly limited to the time antecedent to the issue of leases, so that the leases must bear date, even on this unfavourable hypothesis, subsequent to the proclamation of such reserves.

## 2. After the issue of leases.

It is evident that every argument drawn from the tenor of Lord Grey's Despatch, in connexion with the Orders in Council, have a more cogent application in reference to the power now claimed to make agricultural reserves after the issue of leases. Such a power, claimed, as it is understood to be, under the ninth section of the second chapter of the Orders in Council, would invalidate his Lordship's reasoning altogether, and condemn the extreme solicitude evinced by that Minister, in his Despatches on the subject, as absolutely superfluous. Neither does a consideration of the Orders in Council themselves, apart from these Despatches, lead to a different conclusion. The ninth section reserves to the Governor the right to grant and sell any lands during the currency of the leases for "public," as contradistin-

guished from private purposes, such private purposes being, by possibility, only such as may be comprised in the possession of the fee simple directed to private objects.

On the other hand, what is meant by public purposes, may be collected from the specialities enumerated in the ninth section, which are all for the general advantage, and also by reference to the third clause of the 5th and 6th Vict. c. 36, quoted in Chapter II. Section 8 of the Orders in Council, as declaratory of the objects contemplated in that and the following clauses :—viz.

“ For public roads and other internal communications, whether by land or water, or for the use and benefit of the aboriginal inhabitants of the country, or for the purposes of military defence, or as the sites of places of public worship, schools, and other public buildings, or as places for the interment of the dead, or places for the recreation and amusement of the inhabitants of any town or village, or as the sites of public quays or landing places on the sea coast or shores of navigable streams, or for any other purpose of public safety, convenience, health, or enjoyment.”

Such an enumeration of specialities as is contained in the 9th section of the Orders in Council, and such a provision for railroads, as is the express and special object of the 10th section, would be absolutely superfluous, if a general power to make agricultural and other reserves previously and independently existed ; nor does it appear possible, under the largest interpretation, for the Crown to set aside the express words of the 6th section, which states that—“ During the continuance of any lease of lands occupied as a run, the same shall not be open to purchase by any other person or persons except the lessee thereof;” for if the Crown may come in upon the lessee’s estate, for any and every purpose, the guarantee of the 6th section is rendered absolutely nugatory.

The same point is asserted in the Order of Council, dated 18th July, 1849, viz. (New South Wales Gazette, 1850, vol. i. p. 686),

“ Provided always, that no such condition or clauses of forfeiture, exception, or reservation, shall entitle any person, other than the holder of such lease, to use the lands comprised therin for the purpose of pasture or cultivation.”

And indirectly, by the 15th section of the Orders in Council, viz. that,

“ Upon the expiration of a lease, it shall be competent for the

Governor to put up all or any part of the lands included in a run for sale."

From which it may clearly be inferred that, until such expiration comes about, no such power is conferred.

## II. As to the policy of making agricultural reserves, &c.

The impolicy of an undue dispersion of the inhabitants, is so strongly and fully argued by Earl Grey, in his Despatch already referred to, dated the 29th November, 1846, that it is unnecessary to enlarge further on this subject, except to remark, that the rapid augmentation of the population of this Colony, taken in connection with the probable advance in the price of animal food, would seem to render it eminently unwise to place any unnecessary drawback upon the pastoral interests. Already the dearth of labour is restricting the operations of this class of capitalists, while the effect of opening agricultural reserves in the "Unsettled" districts, would obviously and unavoidably be to convert a large portion of these lands into a right of commonage, from whence would spring innumerable trespasses on the legitimate settler, with all the concomitant evils of cattle-stealing and heart-burnings, and an amount of obstruction to the due pursuit of pastoral objects, as would seriously impede and fetter these operations, and thereby prove detrimental to the public interests.

The settler has no desire to impede the progress of the Colony, nor ought he so to be charged if, in a legitimate manner, he pursues his just claims. The inviolability of public faith is peculiarly a British sentiment, and constitutes the broadest and safest basis of national prosperity.

(Signed) J. F. PALMER.

## PART II.

## No. 44.

*Extract from the Votes and Proceedings of the Legislative Council of Victoria.—20th July, 1852.*

“ Mr. Johnston moved, pursuant to notice, That an address be presented to his Excellency the Lieutenant-Governor, requesting his Excellency to cause measures to be taken for bringing into the market a large extent of land, suitable for agricultural purposes, in the immediate vicinity of the Mount Alexander and Ballarat gold fields. Debate ensued. Mr. Murphy moved, as an amendment, that the following words be added after the word ‘fields,’—‘in accordance with the provisions of the Orders in Council, a due regard at the same time being had to the rights and interests of the occupiers of the land.’ Debate ensued. Question—that the words proposed to be added be so added—put.

“ Council divided. Ayes, 14. Noes, 11.

“ Question, as amended, put and passed.”

## No. 45.

## AGRICULTURAL CROWN LANDS.

*Report of the “Argus” of the 21st July, 1852.*

Alderman Johnston, pursuant to notice, rose to move, “That an Address be presented to his Excellency the Lieutenant-Governor, requesting his Excellency to cause measures to be taken for bringing into the market a large extent of land, rentable for agricultural purposes, in the immediate vicinity of the Mount Alexander and Ballarat gold fields.” He said there was one word in the motion, as printed, which was in error, and as it might lead to a misapprehension of his object, it would be as well to explain it. He wished that land “suitable” for agricultural purposes should be put up for sale, not lands “rentable,” as printed on the notice

paper. His object was to get the land sold, not rented. In a country like this, where there was so much agricultural land, more of it ought to be brought into cultivation, for unquestionably it was the means of great injury to the labourers at the gold fields, that they had to cart all their flour from Melbourne, while, under proper management, wheat might be grown in their immediate neighbourhood. It was not only wheat in which the hardship was felt, but in other produce, as oats and hay, which latter article it was impossible to obtain at the diggings in sufficient quantity. Government should therefore bring into the market all the available land in the vicinity, as when men who had got gold found there were no means here for investing it, they in most cases went back again to where they came from, and many successful diggers went away to the neighbouring colonies, from the impossibility of finding means for the investment of their capital here. It was in the same spirit as that in which the motions of the hon. members for Melbourne and North Bourke (Messrs. O'Shanassy & Smith) on the same subject, had been brought forward, that he now urged on the Government to bring into the market land in large quantities. It might be said that labour could not be found to cultivate this land; but he really believed labour, if to be obtained anywhere, was to be obtained at the diggings. Many men arrived there with limited funds; many more were unfortunate in pursuit of their object; and a proof that labour was to be found at the gold fields might be derived from the fact, that last season the settlers brought their sheep in flocks to the diggings, and there found shearers, which they could not procure at home. There were many men at the diggings anxious to obtain labour, in order to procure the money for licences, and he believed that, at all times, there would be abundance of labour in that locality. He was told there was no land in the immediate vicinity of the gold fields suitable for agricultural purposes, but he did not insist on the necessity of immediate vicinity; on the contrary, he believed that if land for the purpose could be found within a distance of ten miles, a great object would be gained, and there could surely be no difficulty in that. The advantages of producing articles of consumption, near to where they were to be used, was so obvious, so self-evident, that it would be unnecessary to trouble the House with any remarks on the subject; he would, however, reserve to himself the right of replying to any objections that might be

raised, though, he hoped, none would be made, where so evident an advantage was apparent.

Mr. O' Shanassy seconded the motion. The great evil of the system was, the laying out of small townships, and selling only small town and suburban allotments, offering no inducement whatever to the settler, which ought to be done by putting up at the same time large quantities of agricultural land. The vicinity of our gold fields was very suitable for this purpose, but the Government had not brought any land there into the market. At Kyneton, small allotments were sold at £180 the half acre, but as no land in quantity was offered at the same time, the suburban allotments fetched almost as high a price as those in the township. There could be no difficulty in putting up such land. He knew it was a general feeling amongst the gold diggers, delighted with the beauty and variety of the country through which they constantly passed, that they would like to invest the proceeds of their labour in purchasing parts of it. There was every reason for the Government adopting such a course, and in every locality where allotments were sold, putting up large quantities of agricultural land, and such he was persuaded would be found one of the most powerful means for advancing the prosperity of the Colony.

Mr. Fawkner supported the motion. He quoted from the waste lands Act, to show that in selecting lands for sale, among other reasons given for making selections, were the "attaining the improvement and settlement of the Colony." It was the opinion of the Executive, at the time that Act was framed, that those should be the grounds on which land should be selected for sale, and, in accordance with that opinion, lands had been surveyed in the neighbourhood of Kyneton, and put up for sale, and part of it had been sold as town and suburban allotments. Portions of this land had been advertised in different successive sales, but on the last occasion some gentlemen belonging to the district interfered, and prevented the Government from selling that land which they had already advertised. This reflected strongly on the conduct of the Executive, who either had power to sell, or they had not. If they had not that power, they failed in their duty in inducing persons to come from Kyneton, Carisbrook, and elsewhere, to bid for these allotments, but only to be disappointed by finding the squatters had prevented the Government from selling them. They had all the risk and trouble of coming to town to find that the

Government had, at the instance of the squatters, withdrawn the land. If, on the other hand, the Executive had the power, they should have sold the lots, or, if they felt any doubt on the subject, they might have applied to Her Majesty in Council to give them the power. No fewer than three individuals had told him they would have given £4 per acre for the land in that vicinity; but it was not put up, to the injury of the emigration fund and of the Colony at large. The sale of this very land had been prevented by one particular squatter, who interfered with the Government, and prevented them from selling it. Again, by section 6 of the same Act, it was enacted, that it was lawful for Her Majesty to make and enact all such rules and regulations, for the purposes aforesaid, as might be deemed necessary, and any such regulations again to repeal, alter, and amend, if it should appear to be advisable so to do. If then the law-officers of the Colony were of opinion that the Government could not sell this land, they might still have appealed to Her Majesty in Council, and so set the matter at rest. If they found their hands so tied up, that they could not sell, they should at once have applied to the Home Government to remedy the evil. There was abundance of good land around the gold fields, fit for cultivation; he said so from his own knowledge, and he knew many men ready to purchase lots from 100 to 1000 acres. Despite the gold mines, he was certain as much land might be brought into cultivation as to relieve the population of the gold fields by its produce.

The Colonial Secretary thought that, before deciding on this motion, the Council should take into consideration the position of the Crown lands, according to the Waste Lands Act. By that Act the land was divided into three descriptions, the Settled Districts, the Intermediate Districts, and the Unsettled Districts. It was in the Settled Districts alone that the whole of the land was open for sale. In the Intermediate Districts, the land that could be sold was but of moderate extent. The lands in question were all situated in Intermediate districts, so that they were not open to sale, except to a certain extent, and under certain regulations. The extent to which land was open for sale in the intermediate districts, was described in reserves made by the Executive for the purpose of sale and for the advantage of the Colony. Wherever it had been found convenient to fix the sites, as on the chief roads and lines of communication, townships had been laid out, and at-

tached to these townships were reserves of land for agricultural purposes, these varying in extent according to the situation of the townships, some requiring larger reserves than others. These reserves were the only lands available for sale in the districts spoken of, and it was remarkable that, between Melbourne and the gold fields, there was more land of this description than in any other direction. There could be no doubt that it would be very convenient if agricultural produce could be raised nearer to the gold fields, and he thought the reserves he had alluded to, if brought into cultivation, would meet the object of the honourable mover. With regard to the land withdrawn at the last sale, and alluded to by the honourable member for Talbot, such a circumstance did occur. The lands in question were not comprised within the reserves, but had been put up by the Surveyor-General. The fact that they ought not to have been so put up, according to the provisions of the Act, was brought under the notice of the Government by the lessee of the run in which they were situated, and the lots were consequently withdrawn. These lands could be put up on a future occasion, when a certain notice might be given to the squatter, that a part of his run would be offered for sale, and the squatter could then, if he chose, claim the privilege of purchasing such part. At present there were no means of putting additional lands in the market, beyond the reserves which had been retained by the Government for the advantage of the Colony, and they had been made of as great extent as possible. If the object of the honourable mover went further than this, he must oppose it as being impracticable, but if his object was limited to the putting up more land from the reserves, or in the more distant settled parts of the Colony, he (the Colonial Secretary) saw no objection to it, as that could be effected, but if the object went further, he must oppose it.

Dr. Murphy thought that the motion went further than it appeared to do. It must be considered that there were other parties besides purchasers who had an interest in this question. There were the rights of the present occupiers, who had an interest granted by the Crown and guaranteed by the laws. He denied, however, that the occupiers wished to stand in the way of improvement. For himself, and for that body with which he was generally supposed to be connected, he denied that there was any desire on the part of the squatters to afford any hindrance or

impediment to the advance of improvement; but in a question of this sort, directly affecting their interests, he thought they ought to be considered both by the country and the House. By the old Crown land sales Act, 5 and 6 Victoria, cap. 36, the Government were empowered to sell all lands, which were, however, first to be proclaimed as being for sale. In 1844, Sir George Gipps issued a proclamation, which, to this day, remains unaltered. By it, the Counties of Bourke, Grant, and Mornington, were proclaimed as being saleable, and no other land could be sold, except under special conditions, in 20,000 acre blocks. No land could be sold except under that Act, or under the new Act to regulate the Orders in Council. Now the Orders in Council had not been entirely put in force, and it was to be presumed that a law not in entire force was not a law at all. The Government then were not allowed to sell under the new Act, but must fall back on the old law, which allowed the squatters their rights. But again he would say, that there existed no desire whatever on the part of the squatters to prevent the occupation of land, but that they were willing that as much land should be taken for agricultural purposes as was wanted. He had, however, an opinion of his own, that as the course wished to be pursued would cause the land to be deserted; that by it they would get rid of the class of men to whom the Colony owed everything, for the sake of a new class of whom they knew nothing; supplanting Victoria's old race of colonists, who had borne the sweat and the toil, and stood in the heat and the brunt of the battle, for the sake of a new and ephemeral class, whose only stake in the country was a few acres of land. (Oh). Yes, honourable members may say "oh," but if a new gold field of greater attractions were discovered at Sydney or elsewhere, would not this new class be off again as quickly as they came? Did not this new class consist of men who would not be fixed, but who were to be drawn away by the first attraction that offered? The squatters did not wish to stop progress; all that they required was, that in anything that might be done, due regard should be had to the interests of all parties. He moved an amendment, that the following words should be added:—"due regard, at the same time, being had to the rights of the present occupiers."

## MESSAGE FROM HIS EXCELLENCY.

A message from His Excellency being announced, and the Private Secretary having delivered it to the Speaker,

The Speaker announced that he had received a message from His Excellency, No. 9, inclosing a copy of a despatch received from the Secretary of State, respecting the subject of emigration.

On the motion of the Colonial Secretary, the Message, with its inclosures, was ordered to be printed.

The Speaker also announced the receipt of another Message, No. 10, containing the draft of a bill for the confirmation of the use and adoption of the Seal of Victoria.

The Attorney-General moved that the bill be read a first time and printed, and would fix the second reading for to-morrow, (this day). The circumstances requiring the introduction of the bill were these: when the Act of Separation took place, no Seal had been sent out for the use of the Colony, and His Excellency had therefore adopted one which had been in use till a few days ago, when it was destroyed, a new Seal having been sent. The object of this Bill was to indemnify all persons from any consequences that might arise from having acted under the authority of the old Seal.

The motion was seconded by the Solicitor-General, and carried.

## DEBATE RESUMED.

Mr. Rutledge seconded the amendment of the honourable member for the Murray. The motion appeared to him to be very obscure, unless the purport of it was to call on the House to address His Excellency to set aside a law of the land, and destroy an important interest which existed under protection of that law. It must be obvious to any one, on reading the Crown Lands Act, or the Order in Council, that the lands in the intermediate districts could not be put up for sale as persons might desire, for their own advantage. If the motion had been one calling on the Government to define the lands set down as reserved, he would have supported it; but when it was of so vague a description, as merely to suggest the idea of setting aside the law, with regard to the intermediate districts, he could not do so. If the honourable member for Talbot had gone a little further in his reading of the Act, he would have seen that it was not competent for the Government to infringe the leases of occupants, either before or

after the granting of their licences ; and it would be only justice as well as law to carry out the Orders of Council in the spirit, as well as in the letter. It was true that such reserves should be made as exigency might require, but they should be maintained in good faith with the squatters. He for one would never consent to ask His Excellency to infringe an Order of Council, which had been framed for the benefit of the Colony at large ; as well might it be attempted to disturb grants of land that had been made years ago. As long as the law existed it would be law, and could not be interfered with ; but if, from changes and other circumstances, pastoral leases were found to press unduly on the other interests of the Colony, let the Act of Parliament be altered, but, at the same time, let there be some compensation allowed for injury done to fair and vested interests.

Mr. Strachan wished the honourable member for Villiers had gone a little further in his explanation of the Act. His (Mr. Strachan's) reading of it was, that the Governor had power to release the intermediate districts, after a period of eight years. That was his view, but till the Executive should speak out as to their intentions respecting the issue of new leases, both the House and the public were totally in the dark on the subject. He agreed with the honourable mover as to the importance of putting up land for sale at the gold fields. There was no obstruction to induce the Government to withhold those lands, but, as he said before, until the Government stated their intentions as to the leases, the House must remain in ignorance on the subject.

Mr. Fawkner would not have opposed the amendment, but that he thought the words were a trap laid to catch the unwary. The honourable member for the Murray talked about the just rights of the squatters. He (Mr. Fawkner) asserted that those just rights were based on robbery (a laugh), and he would, on Friday next, show it distinctly to the House.

Mr. Rutledge rose to order, but

The Speaker ruled in favour of

Mr. Fawkner, who proceeded to read from the Crown lands Act, to show that it gave power to Her Majesty in Council to "renew, repeal, and alter" any of its provisions. The hon. member for Villiers might therefore, had he possessed sufficient mental discernment (a laugh) have seen that the power which he denied did exist under the Act. It appeared to be the wish of some hon.

members, that the whole Colony, with its population of 120,000 or 130,000, should succumb to 600 or 700 squatters. They did not wish to see here the men of a few paltry acres—the men who were the mainstay of every country—the men who formed a bold yeomanry—it was not their wish to see such men as these come and settle, but they would rather see the whole country occupied by some six hundred or seven hundred sheep-farmers, and the Executive was in league with them. The Colonial Secretary had said that the townships had been laid out for the convenience of the squatters. They did not want storekeepers and tradesmen, and mechanics in the townships, with cultivated land around, but only a hoard of sheep-farmers. They did not want to get £80 per acre for the land, put preferred letting it to the squatter, who paid a quarter of a farthing an acre for it, on leases obtained by misrepresentation sent from Sydney. He denied the right of the squatters—these rights were a violent wrong to the whole community. (Hear from Mr. Rutledge). Oh, (continued the honourable member, turning sharply round), gentlemen were for altering the law the other day, when it trod on their toes a little, but where it put a little money into their pockets, or enabled them to enrich themselves to the injury of the rest of the community, they were great sticklers for upholding it inviolate. It would be like coming back to the old times, when biscuit was 20s. a lb. and flour not to be had; tobacco, 5s. a quarter of an oz. and Indian corn half a guinea per lb. He did not wish to dispossess the squatters—

Mr. Rutledge—Beef and Mutton.

Mr. Fawkner—They might continue to sell their beef and mutton, and at a high price too. He had no wish to prevent them from doing that. He would ask the Executive, and it was a request they must grant, though they might delay it for a time, to put up lands for sale that might be cultivated, and that would produce from fifty to seventy bushels of wheat per acre—such as that land at Kyneton. There were persons who would give £4 per acre for it. At present, 30,000,000 of acres were divided among some 660 persons. Suppose that from each were taken 2000 or 3000 acres, for agricultural purposes, there would still remain to them 27,000,000 or 28,000,000. He did not want to disturb the squatters; but let not that land, which would fetch £10, £20, £30, or £40, an acre in the market, be leased out at the rate of a quarter of a farthing an acre.

Mr. A'Beckett said, that it was his intention to vote for the amendment, but he hoped thereby that he should not be deemed not to be a "true man." When he first saw the notice of the present motion on the Paper, and had read it, it seemed to him that there must of necessity be perfect unanimity on the subject. He dare say, that if he had expressed such an opinion, many honourable members would have smiled at his simplicity, for he was certainly not aware that such a discussion as the present one would have arisen. The only difficulty in the matter appeared to him to be, whether a certain measure would be carried out in accordance with the law, or in opposition to the law: that appeared to be the point at issue. The measure proposed that land should be put up for sale in larger quantities than at present, and to that he fully assented. He should be glad to see large quantities of land rendered available for agricultural purposes, but he should also be glad to see the exercise of a due respect for the rights of subjects; nor did he think that any good result would be obtained by setting aside any rights which had been conferred on any portion of the community. He had looked carefully into the Orders in Council, and found that, with reference to the lands which it was now sought to bring to a public market, the difficulties were very slight; it was only required that due notice should be given to the squatters that the lands they occupied would be required for sale, and prepared to receive the "bold yeomanry," of whom the honourable member for Talbot had been speaking. He certainly should deeply grieve that the rights of any body of men should not be preserved, and had hoped that when the honourable mover was shown the amendment, he would at once have assented to it. Had he done so, the House would have been spared this discussion, for he thought it a sad thing that the pastoral interest of the Colony should have an ill feeling manifested against it by the commercial interest. Such a state of things was much to be lamented, for the interests of each were of equal importance; and it should ever be borne in mind, that to the inducements that had been formerly held out to persons engaged in pastoral pursuits, the existence of the Colony was owing. No one was more aware of the jealousy that existed between the two opposite interests, than the honourable member for Talbot, who had himself taken such an interesting part in the establishment of the Colony. (The honourable member here read an extract from a

work on the subject.) For himself, he should vote for the amendment, as recognising a principle which he conceived it would be very dangerous for that House or for any Legislative Assembly to disavow.

Mr. Smith thought that the honourable mover had not been sufficiently explicit. What was the motion? Did it call upon Government to violate the law? No. It was not depriving the squatter of his just rights, but simply following up the resolutions previously arrived at by that House regarding the vacant Crown lands. He was certainly surprised to hear the honourable member for Villiers state that the resolution was so vague as to induce the belief that its object was to set aside the Orders in Council. He would read the motion again; it merely requested His Excellency to cause measures to be taken for bringing into the market a large extent of land, suitable for agricultural purposes, in the neighbourhood of the gold fields. He should have been gratified if the Colonial Secretary had stated that he was prepared to tell the House that the lands should be immediately brought into the market, to meet the requirements of the Colony. What was the object of the amendment, but to stultify the character of every member of that House? It stated that they were to ask the Government to do this, and at the same time put in a promise that it was to be done according to law. He for one would oppose the amendment, but would at the same time say, that if the squatter had any claims according to law, those claims should be held sacred. Honourable members would do wrong—

Mr. Rutledge rose to order, saying that the previous speaker ought to address his remarks to the chair.

Mr. Smith continued, that he would submit to the House that the motion should not be taken to mean more than it expressed; it simply required that the land should be made available for the public, and that such ought to be the case, he did not think any honourable member would for one moment gainsay. He hoped the House would carry the motion; it was perfectly good as it stood, and was one that he should cordially support.

Mr. O'Shanassy was unwilling to speak again on that subject; but the honourable member for the Murray had taken the alarm, and attached to the motion a latitude he was not justified in doing, by any remarks which had been made either by the mover or seconder. He (Dr. Murphy) had feared that there was an intention

of invading the just rights of the squatters, that is, if they had any just rights; and if they had, the mode that had been adopted by the proposer of the amendment, was calculated to injure them materially. He was surprised that the amendment had met with any support from either side of the House; as, were it not for the gold discovery, this would have been the leading question of the day; and the motion did not contemplate doing anything in other than a legal manner. They had been told a great deal about the gold fields absorbing so much labour that the crops would remain uncut? But had anybody heard of a single sheaf of wheat which had remained uncut? People, in fact, were desirous of purchasing land, and engaging in agricultural pursuits; and such remarks as had been made came with a very bad grace from persons who had occupied the waste lands for so long a time.

Mr. Snodgrass was of the same opinion as Mr. O'Shanassy; but would, at the same time, remark, that the honourable member for the Murray, in bringing forward his amendment, had evinced much unnecessary alarm.

Mr. Johnston said, that the honourable member from William-street had expressed a degree of surprise that the present discussion had arisen. The honourable member was, perhaps, not yet acquainted with the fact, that a certain class of persons were haunted by spectral illusions, and that there was never any notice of motion placed on the paper without their discovering in it a hidden meaning of doing them some serious injury. These gentlemen were the squatters. The honourable member (Mr. A'Beckett) had also expressed his surprise that he (Mr. Johnston) had not assented at once to the amendment. He was astonished that it had been moved at all, and hoped that it would be withdrawn, as being perfectly unnecessary. The honourable member for Talbot had said that the squatters had done all in their power to prevent the sale of lands, and he was perfectly right, and the Colonial Secretary had informed the House that what he (Mr. Johnston) had asked for was impracticable. People might ask the Government what they pleased, and the answer was sure to be "its impossible;" but he was perfectly convinced that what he now asked was quite possible, and could easily be carried out in accordance with the Orders in Council. It had also been said that the motion was in opposition to the law of the land, but this he denied, as Government had power, after sixty days' notice, to

the holder of any run, to offer for sale part of any such run. The honourable member, Mr. A'Beckett, had stated that all that was necessary was to give notice at the end of the year that a sale would take place. He was rather surprised that a gentleman of his legal sharpness should have overlooked one point. The Act said, "from the date of his lease," while in fact there was no lease; and why? If the squatter did not choose to take the land at a fair valuation, and when Government had the power of appointing two valuators out of three—if the valuation was then incorrect, it was not the fault of the law, but of this impracticable Government. The honourable mover of the amendment was anxious that the rights of the squatter should not be interfered with. He had no intention of interfering with them, as he was opposed to every description of class legislation, and should not interfere with the squatters as a class; but in bringing forward the amendment he thought they had shown their own ridiculous fears. An honourable member had also termed the present discussion a useless one. This he denied, as it would show the House that they ought not to be alarmed at the outcry of these unreasonable people. It was well known what description of mind suspicion haunted, and he would not apply the quotation further. It had also been said that it was not right to displace the present occupiers of the land, and allow the owners of a few paltry acres to come in; but he looked upon the owner of these few acres as equally as important as the others. Even if he ran away, his money went to bring out emigrants, and they do not run away, so the small owner of land benefitted the Colony much more than the squatter did. The honourable member who had seconded the amendment, had accused the supporters of the resolution of a desire to set aside the law, and had said that those squatters who were deprived of their runs ought to have compensation. Now, if it could be shown that they had any lawful claim on the land, he should be willing to give them this compensation; but when Government had a difficulty to contend with, and saw that it was a difficulty, they shut their eyes to it, and tried to forget it. They had even tried to forget these Orders in Council, and were in hopes that if they left them alone everybody else would do so too. He thought, therefore, that the discussion was useful, especially if it had the effect of having the squatters' leases dated at the time they ought to be—not letting land for four years and giving them eight. He very much object-

ed to 60,000 men being starved, in order to suit the convenience of three or four squatters, and hoped that the amendment would be withdrawn. He had also hoped that the Colonial Secretary would have been able to come to the House, and give a more satisfactory answer than he gave a short time ago to the honourable member for Talbot, by saying that the leases were in course of preparation.

Dr. Murphy had not the least wish to divide the House, or press his amendment, if the House were opposed to it. If, therefore, the seconder would permit him, he would withdraw it.

Mr. Rutledge acceded, but

Mr. Campbell objected to the withdrawal; and the question being put, the amendment was carried. The following was the division :—

Ayes, 14.—The Colonial Secretary ; the Auditor-General ; the Chairman of Quarter Sessions ; the Attorney-General ; the Solicitor-General ; Messrs. A'Beckett, Anderson, Riddell, Russell, Campbell, Murphy, Rutledge, Wilkinson, Splatt (Teller).

Noes, 11.—Messrs. Westgarth, Johnston, O'Shanassy, Strachan, Miller, Dight, Fawkner, Snodgrass, Turnbull, Goldsmith, Smith, (Teller). The motion, as amended, was then carried.

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## No. 46.

*Extract from Votes and Proceedings of the Legislative Council of 28th July, 1852.*

### EXTENSION OF THE SETTLED DISTRICTS.

Mr. Fawkner moved, pursuant to notice, That an Address be presented by this Council, requesting His Excellency the Lieutenant-Governor to represent to the Queen in Council the urgent necessity for extending the area of the settled districts in Victoria, and that His Excellency will be pleased to strenuously urge upon the home authorities the vast importance of this extension, and the necessity for its instant adoption ; and that such a large addition has been and is daily being made to the population of this province, in consequence of the gold found here, that not less than the whole of the intermediate district, together with all that extent of country in which gold can be profitably worked, ought to be included in and under the title of settled districts.

Mr. Rutledge moved, as an amendment, That all the words after "That" be omitted, with a view to insert the words, "leases be immediately issued to the occupants of Crown 'lands,' to bear date on the 7th April, 1848, in order that the lands may be opened for sale, under the Orders in Council of the 9th March, 1847, in quantities to meet the demand of the increasing population of the Colony."

Debate ensued.

Mr. Johnston moved, as an amendment to the amendment proposed by Mr. Rutledge, That the following words be inserted after the word "lands," viz. "in the intermediate districts."

Debate ensued.

Question—That the words of the original motion, proposed to be omitted, stand part of the question—put and negatived.

Question—That the words proposed to be inserted in the amendment first proposed, be so inserted—put.

Council divided.

Ayes, 9.—Messrs. Smith, Miller, Westgarth, Johnston; Dr. Thomson; Messrs. Fawkner, Strachan, Dight, O'Shanassy (Teller).

Noes, 18.—The Colonial Secretary; the Attorney-General; the Auditor-General; the Chairman of Quarter Sessions; Mr. A'Beckett; Lieut. Col. Anderson; Messrs. Campbell, Riddell, Turnbull; the Solicitor-General; Messrs. Goldsmith, Russell, Snodgrass, Wilkinson, Rutledge, Mercer, Murphy, Splatt (Teller).

Question—That the words proposed to be inserted in the place of the words of the original motion, be so inserted—put.

Council divided.

Ayes, 18.—Mr. Murphy; the Colonial Secretary; the Attorney-General; the Solicitor-General; the Auditor-General; Lieut Col. Anderson; Messrs. A'Beckett, Russell, Campbell, Riddell Chairman of Quarter Sessions: Messrs. Splatt, Wilkinson, Turnbull, Snodgrass, Goldsmith, Rutledge, Mercer (Teller).

Noes, 9.—Messrs. Smith, Miller; Dr. Thomson; Messrs. Fawkner, Johnston, Strachan, Westgarth, Dight, O'Shanassy (Teller).

Question—That leases be immediately issued to the occupants of Crown lands, to bear date on the 7th April, 1848, in order that the lands may be opened for sale under the Orders in Council of the 9th March, 1847, in quantities to meet the demand of the increasing population of this Colony—put and passed.

## No. 47.

## PRE-EMPTIVE RIGHT TO CROWN LANDS.

Mr. Fawkner moved, pursuant to notice, That an Address be presented to His Excellency the Lieutenant-Governor, that he will be pleased to withhold the granting of all "lands" to all persons who have claimed, or may claim, lands under the so-called pre-emptive right, conferred, or supposed to be conferred, by the Orders in Council, dated England in 1847, until this matter shall have been brought under the notice of Her Majesty in Council.

Debate ensued.

Mr. Polman moved, as an amendment, the insertion after the word "lands" of the words, "beyond the homesteads, or such quantity of land as to His Excellency may appear proper in each particular case, to all persons who have claimed, or may claim, lands under the so-called pre-emptive right, conferred, or supposed to be conferred, by the Orders in Council, dated England in 1847, until this matter shall have been brought under the notice of Her Majesty and Council"—put and passed.

## No. 48.

No. 32. Pre-emptive right to Crown lands—adopted on the 17th August, 1852, on the motion of Mr. Fawkner; and that His Excellency had to such address been pleased to reply as follows:—

"In replying to this address, would take occasion to advert to the expression of opinion, on the part of the Council, which I find has been recorded at an earlier period of the session (July 28th), relative to the propriety of the immediate issuing leases, bearing a specified date, under the Orders in Council of the 9th March, 1847, to the occupants of Crown lands, in order that the land may be thrown open for sale in quantities to meet the demands of the increasing population of the Colony.

"I may remark, that it does not appear to be in my power to direct the definite issue of these leases without very considerable further delay. The whole question which this issue involves is one, I conceive, to be of the greatest importance to the Colony.

"While, therefore, I consider it my duty to make every effort to comply with the main provisions of the Orders referred to, and to proceed with the measures preparatory to such issue,

and further hold that it is both just and reasonable that the authorised occupant of the waste lands of the Crown, for pastoral purposes, should feel himself secure in the undisturbed occupation of those lands, so long as the general interests may not demand their final appropriation, by sale, or otherwise, for other purposes, I am fully disposed to yield to what appears to be the wish of the Council, and to bring the whole subject under the attention of the Home Government, in order that, before leases finally issue, some of the subordinate provisions of the above Orders, and certain points upon which there exists a grave discrepancy of opinion, may be duly weighed, explained, and disposed of under Her Majesty's authority, full assurance being attained that, while the interests of one most important class of colonists are suitably provided for, the general welfare of the Colony is in nowise perilled. I shall take an early opportunity of communicating upon the subject with the Secretary of State.

"In the interval, the claimants for leases will be enabled to take advantage of the privilege conceded by the Government notice of the 28th June, 1850, to purchase, under pre-emptive right, their homestead section or other limited portion of their runs.

"Due notice will be given of the portions of land which it may be proposed formally to exclude, on broad public grounds, from lease when issued, though, until finally withdrawn from occupation by sale or grant, the right of the present licensee to exclusive occupation of the same will remain unquestioned. And, lastly, in conformity with the powers which the Lieutenant-Governor is held to possess, and has already exercised, such portions of the Crown lands comprised within those reserves as may be clearly required for the public and general advantage of the Colony, may be brought into the market, without being held subject to pre-emptive right."

(Signed) C. J. LA TROBE.

#### No. 49.

RETURN showing the Number of Applications to purchase Lands within the Settled Districts under Pre-emptive Right, in accordance with the Regulations of the 8th December, 1851, which have been laid before the Land Board, distinguishing the Numbers and Quantities of those allowed and awaiting

Decision, together with the average Price, as far as can be ascertained.

District.	Applications dealt with		Allowances.		Average Price per Acre.	Awaiting Decisions.	
	Numbers.	Quantities.	Numbers.	Quantities.		Numbers.	Quantities.
Settled Districts of the Colony . .	149	101032	133	36480	£ s. d. 1 0 7	19	9100 Acres.

The total quantity of Crown Lands held under lease within the settled districts under the 22d clause is 1,384,507 acres.

The award of the board has never exceeded the extent of 640 acres on each run. (Signed) R. HODDLE, Surveyor-General.

NOTE.—It may be remarked, that, in addition to the above purchases under the system of valuation, the large purchase of W. J. T. Clarke, to the extent of 31,375 acres, county of Bourke, sanctioned by the Governor-General, under the 25th clause of the Regulations of the 1st March, 1843, based upon the Imperial Act 6 Victoria, c. 26, previous to the separation of the Colonies, was effected in the same manner, and was allowed at the upset price of £1 per acre.

### No. 50.

RETURN showing the Number of Applications to purchase Lands in the Intermediate and Unsettled Districts under Pre-emptive Right, in accordance with the Regulations of the 28th June, 1850, which have been laid before the Land Board, distinguishing the Quantities so allowed and awaiting Decision, together with the average Price, so far as can be ascertained.

District.	Applications dealt with		Allowances.		Average Price per Acre.	Awaiting Decisions.	
	Numbers.	Quantities.	Numbers.	Quantities.		Numbers.	Quantities.
Portland Bay	68	94677	47	22719			Acres.
Western Port	36	32107	31	14683			
Murray . .	6	2447	5	2138	1 0 8½	49	19672
Gipp's Land .	3	486	1	160			
Wimmera . .	1	320	1	320			
Totals . .	114	130037	85	40020		49	19672

The award of the board has not exceeded the extent of 640 acres on each run. (Signed) R. Hoddle, Surveyor-General.

## No. 51.

At a large and most influential Meeting of the licensed occupants of Crown lands, held this 2nd day of September, 1852, at the "Prince of Wales" Hotel, Melbourne, Victoria, for the purpose of preparing a Petition to Her Majesty in reference to the Rights of the Petitioners arising under the Orders in Council; John Carre Riddell, Esq., M.L.C., in the chair;

1. It was proposed by Mr. John Goodman, J.P., and seconded by Mr. Alexander Cunningham, J.P., and carried unanimously:

"That the pastoral tenants of the Crown in the Colony of Victoria, having been assured of the possession of leases, for one, eight, or fourteen years respectively, in the settled, intermediate, and unsettled districts, by Her Majesty's Orders in Council, dated 8th March, 1847, founded on an Act of the Imperial Parliament, have a just claim to have those Orders, which came into operation on the 7th October, 1847, carried out according to their spirit and real intention, as more fully explained in Lord Grey's despatches of 20th November, 1846, and 20th March, 1847."

2. Proposed by Mr. William Campbell, M.L.C., and seconded by Mr. W. F. Splatt, M.L.C., and carried unanimously:

"That claims to leases, with the privilege of purchasing at a valuation, became marketable through the sanction of Government, by the proclamation of 1st January, 1848, and that a very large proportion of the present holders have purchased their claims at a high value, so that property to a large amount has changed hands under such pledges of public faith, and in the fullest confidence that the law affecting so great an interest would be held sacred by the British Parliament."

3. Proposed by Mr. William Forlonge, and seconded by Mr. A. Campbell, and carried unanimously:

"That the demand for land is fully provided for by many millions of acres within the settled and intermediate districts, which under the Orders in Council may be made available for sale for agricultural purposes."

4. Proposed by Mr. Colin Campbell, and seconded by Mr. Horace Wills, and carried unanimously:

"That the squatters of this Colony, while they admit that the agricultural wants of the community should be amply provided

for, are also of opinion, that the maintenance of the pastoral interests is of still greater importance, as they supply a large export of wool required at home for manufacturing purposes, and at the same time provide a sufficient supply of animal food, which cannot be imported, for the use of a rapidly increasing population, and that a system of long leases for pastoral purposes, is calculated greatly to develop the resources of the Colony, by justifying the expenditure of capital on valuable improvements."

5. Proposed by Mr. W. F. Splatt, M.L.C., and seconded by Mr. Compton Ferrers, J.P., and carried unanimously :

"That while the pastoral tenants of the Crown are denounced as conspirators against the peace and prosperity of the Colony, by men who advocate the subdivision of the public lands among the people at large, and the confiscation of existing interests, they have ever occupied the position assigned to them by the Crown, and discharged its obligations with loyal submission, as colonists and British subjects, and that they now believe that those who combine the possession of property and intelligence, both in town and country, are favourable to the maintenance of that pastoral system which has proved so beneficial to all classes of the Colony."

6. Proposed by Mr. W. F. Splatt, M.L.C., and seconded by Mr. Adolphus Goldsmith, M.L.C., and carried unanimously :

"That the following gentlemen,—J. C. Riddell, Esq., M.L.C., W. Campbell, Esq., M.L.C., John Goodman, Esq., M.L.C., William Forlonge, Esq., and Colin Campbell, Esq.—be appointed a committee to transmit a copy of the foregoing resolutions to his Excellency the Lieutenant-Governor, in time to go home by the *Chusan* steamer."

A vote of thanks to the chairman being passed, the meeting separated.

(Signed)      J. CARRE RIDDELL,  
Chairman.

## No. 52.

*Copy of a Despatch from Lieutenant-Governor La Trobe to Sir John S. Parkington, Bart.*

(No. 132.) Melbourne, September 25th 1852. (Received December 28, 1852.)

SIR,—1. Referring to my Despatch, No. 111, of the 3rd Dec.  
• 1852, with its important inclosures, I have now the honour to  
transmit a petition addressed to Her Majesty by certain licensed

occupiers of waste lands of the Crown, in the Colony of Victoria, on behalf of themselves and other licensed occupants, which I would request you to take a suitable opportunity of laying before Her Majesty.

2. This document has come into my hands at so late an hour before the sailing of the *Australian*, that it is quite impossible for me to accompany it with any detailed remarks, and yet to withhold its transmission might occasion great disappointment to the important section of the colonists whose views and interests it is intended to advocate. However I may be held, in one or other section of the Despatch cited above, to have anticipated the more important statements and comments which it might otherwise have been my duty to have accompanied it.

3. My wish is, that the whole of this important question, which the case brought under your notice involves, should be weighed in all its bearings, and I can take no grave exception to the view taken by the gentlemen who have signed the petition of what they conceive to be their claims as a body, and of the rights which they have acquired under the Orders in Council. It may be held to be a natural if not a sound one in all respects.—I have, &c.

(Signed) C. J. LA TROBE.

The Right Hon. Sir John S. Parkington, Bart. &c. &c. &c.

P.S.—I likewise transmit a letter which accompanied the petition.

(Signed) C. J. L.

Melbourne, 25th September, 1852.

SIR,—Referring to the letter which I had the honour to address to your Excellency, inclosing certain resolutions (adopted at a meeting of Crown tenants, of which I was chairman, in reference to their rights under the Orders in Council), to be forwarded to Her Majesty's Secretary of State for the Colonies, I have now the honour to forward the memorial based on these resolutions.

I beg to state, for your Excellency's information, as well as that of the Right Honourable the Secretary of State for the Colonies, that the memorial contains a simple statement of facts of memorialists' case, and would have been signed by almost every tenant of the Crown, had time permitted of its being sent into the interior. As it is, the memorial is agreed to by all that are resident within reach of Melbourne.

Understanding that your Excellency is forwarding by the steamer *Australia*, Despatches in reference to these Orders in Council, the memorialists feel it their duty to forward their memorial with such signatures as they have been enabled to get to it.

To your Excellency it may be unnecessary to mention, that were the memorialists to delay forwarding the memorial until time admitted of its being sent into the interior for signature, many months would be consumed, from the impassable state of the country at this period of the year. Under these circumstances, the memorialists consider they will be best consulting the interests of the Colony and the Government, by forwarding the memorial at once, with such signatures as have been obtained to it; and they trust that your Excellency will, in forwarding the memorial, be pleased to bring under the notice of the Secretary of State for the Colonies, the feelings that have induced them to adopt such a course.—I have, &c. (Signed) J. CARRE RIDDELL.

His Excellency C. J. La Trobe.

### No. 53.

*To the Queen's most Excellent Majesty.*

The humble Petition of the undersigned licensed occupiers of waste lands of the Crown, in the Colony of Victoria, on behalf of themselves, and the other licensed occupiers,

Sheweth,—That the great bulk of the waste lands of the Crown in this Colony, was first discovered and occupied by the present licensed occupants, or by their predecessors, whose interests in such waste lands, as conferred by the Crown, they purchased, and whom they now represent.

That the flocks and herds, introduced by your Majesty's petitioners and their predecessors, have given a value to the land which could have been imparted to it in no other way, and have been the means of creating an export of wool and tallow, which has been hitherto the chief cause of the prosperity of this Colony, and proved of vast importance to the Mother Country; the trade of the merchant, the shopkeeper, the artisan, and agriculturist, each receiving a stimulus from the large amount of money and merchandise, introduced in exchange for this export, and disseminated in the shape of high wages and other expenditure through the entire community.

That the value of this export of wool and tallow amounted in 1850 to upwards of one million pounds sterling.

That in the discovery and settlement of this country Your Majesty's petitioners, and those whom they represent, expended much capital, experienced great personal hardships, and made great social sacrifices; were continually exposed to great risk of life and property, passing a life of great hardship and privation; and for many years, owing to the high price of labour, to the losses consequent on a new settlement, and other causes, the profits of your petitioners were so small and precarious, that many of the first settlers became insolvent.

That in consideration of the causes shortly stated above, and for divers other good reasons, an Act was passed by the Imperial Parliament, in the year one thousand eight hundred and forty-six, empowering Your Majesty to grant leases of eight and fourteen years to your petitioners, and to make regulations, by Order in Council, as to the terms on which such leases should be granted, and for other matters connected therewith, as more fully alluded to in the explanatory Despatches of Your Majesty's Secretary of State to the Governor of New South Wales, accompanying the Order in Council.

That in pursuance of the authority thus vested in Your Majesty, Your Majesty did, on the eighth day of March, one thousand eight hundred and forty-seven, by Order in Council, divide the lands of this Colony into three classes, called respectively the settled, intermediate, and unsettled districts.

That by these Orders Your Majesty declared that the occupants of land in the unsettled districts should be entitled to demand leases of their respective runs, and the Governor was empowered to grant such leases for fourteen years, subject to certain reservations for public purposes therein specified.

That within lands coming under the description of intermediate lands, Your Majesty further declared that leases should be acquired on similar conditions, but that they should only last for eight years; and that, at the expiration of each year of the lease, the Governor, on giving to the lessee sixty days' notice, might offer the whole or any part of such lands for sale by auction, subject to the right of the lessee to purchase any portion of them at their fair value, ascertained by arbitration, in the mode pointed out by such Orders.

That in the settled district, leases for exclusively pastoral purposes should be granted for one year, but revocable should the land be required for sale.

That the settled district comprises all lands within twenty-five miles of Melbourne, fifteen of Geelong, ten of Portland, Alberton, and Belfast, and within two miles of the sea coast of the whole Colony. This is computed to contain about an area of three millions of acres.

That the intermediate district comprises the sixteen counties of Victoria, and the whole of Gipp's Land not contained in the settled district, and is computed to contain about twenty millions of acres.

That the purchased land amounts to about four hundred thousand acres, not one-tenth part of which has ever as yet been brought under the plough; while the cultivation of the arable lands, which were under tillage previous to the discovery of the gold, has been since then in a great measure abandoned for the more lucrative pursuit of gold digging, and that there are upwards of two millions and a half of acres which may be put up for sale, by public competition, as soon as the surveys of them are complete, and twenty millions which may be put up for sale at the expiration of each year of lease, subject to *the proviso permitting the lessee to purchase such portion as he may require at its fair value*. So that, with a population of one hundred and twenty thousand, or even if it amounted to many millions, there is no just pretence for saying that there is not sufficient land at present attainable for all agricultural purposes required by the Colony, or that the lands of the Colony would be confiscated, or occupied prejudicially to the general interests of the Colony, if leases for the limited terms contemplated by the Orders in Council were issued to the licensed occupants, the public interest being protected by the proviso above cited.

That your petitioners have made their claims for leases within the time prescribed by the Orders in Council; but that, owing to some cause with which your petitioners are not acquainted, the Lieutenant-Governor of this Colony has not issued any leases to your petitioners, nor has he declared when they are to issue, nor the time from which they are to date, although frequently requested so to do, and although the Governor-General in the neighbouring Colony of New South Wales has declared that, in

that Colony, leases under these Orders are to issue and bear date the 1st of January, 1852.

That on the faith of these Orders in Council, many persons have invested their entire capital in the purchase of runs, and that claims to leases, with the privilege of purchasing at a valuation, were made transferable, through the sanction of Government, by the proclamation of the 30th of June, 1848, the language of which is so clear and expressed as to the right to sell leases which many of Your Majesty's petitioners have bought, that they cannot but consider that it will be impossible to deprive Your Majesty's petitioners of the rights acquired by them under so express a sanction, without disregarding entirely those principles which are essential to the protection of property and of public faith.

That very large sums of money have, upon the faith of the above proclamation, been paid by persons settling in this Colony in the purchase of leases, by such proclamation authorised to be sold, believing that the capital brought over by them for the purpose of investment and enterprise could not be more securely laid out, or more beneficially employed, than in the acquiring of an interest guaranteed by the Crown, in connection with an occupation to which the Colony owed its progress, and by which the Mother Country had been and still is immensely benefited.

That, about ten months ago, gold in large quantities began to be discovered in this Colony, and that every succeeding month has shown the exclusive richness of the deposits of this metal. That, in consequence of this discovery, there has been a large influx of gold seekers from the neighbouring colonies, the population of Victoria having increased, in a few months, from seventy-seven thousand souls to about one hundred and twenty thousand.

That the wealth derived from the gold fields has more than kept pace with the increase of population, upwards of four millions of pounds sterling in value having been raised in the short time mentioned; and that, from these causes, all property in the Colony, with the exception of sheep, has risen in value; but that, as yet, owing to the difficulties of procuring labour, the effects of the gold discovery have been most disastrous to the sheep farmer, the increased demand for the carcase being not more than equivalent for the stoppage of the export of tallow consequent on the want of hands at the melting establishments; while the expense

of rearing stock is greatly increased by the want of labour before alluded to.

That the withholding of leases, on the part of the Government, has discouraged your petitioners from taking those steps for dispensing with labour which they might otherwise have taken, by fencing in the same, and procuring permanent water by artificial means. The present great want of manual labour in the Colony, joined with the before-mentioned withholding of the leases, is certain materially to impair, both in quality and quantity, that export of wool which has conduced so much to the past prosperity of this Colony, and has at the same time promoted the manufacturing interests of the Mother Country.

That a party in this Colony look with jealousy at the increased value which the holdings of your petitioners, in common with all other property, are likely to derive from the discovery of gold, and, as your petitioners are informed, have petitioned your Majesty to revoke the Orders in Council, and to break your Majesty's promise, and the good faith of Parliament, pledged to your petitioners.

That your petitioners feel that it might be considered an insult to your Majesty to conclude with a prayer that your Majesty would preserve inviolate a pledge solemnly given; it is, therefore, from no distrust in your Majesty's good faith that they now approach your Majesty on this subject, which they would not have done, did they not fear that their silence might be construed into an approval of the proceedings of these persons before mentioned, and an indifference to their own rights.

Your petitioners, therefore, pray that your Majesty will give directions to the Lieutenant-Governor of Victoria to carry out the Orders in Council, in the spirit in which they were made, by issuing leases to your petitioners, dated, as proposed by the Governor-General in New South Wales, from the first day of January, one thousand eight hundred and fifty-two, and securing to them the rights guaranteed by those Orders.

And your petitioners will ever pray, &c.

(Signed)      W. F. SPLATT, M.L.C.  
And 66 other Signatures.

## No. 54.

Downing Street, 29th November, 1853.

SIR,—1. I have to acknowledge your Despatches of the numbers and dates specified in the margin, on the subject of the questions which have been raised relative to the extent of the Rights of Licensed Occupants of Crown Lands in Victoria, under the Order in Council of 9th March, 1847, and subsequent Orders and Regulations.

2. In the first of these Despatches you inform me (paragraph 61), that you have brought the whole of this very complicated subject under the attention of the Home Government, in compliance with the wishes of the Legislative Council, as expressed in their Address, voted on the 17th August, 1852, in the manner explained in your Despatch.

3. In giving you the Directions which the present Despatch contains, I am actuated by the desire to satisfy, as far as in my power, what appears to be the deliberate wish of the Legislative body, as well as your own. It would, undoubtedly, have been a far easier course for Her Majesty's Government to decline this responsibility, and to leave the entire charge of future regulations, and the decision of questions of vested rights, now actually in dispute, to the Local Legislature, and to the local tribunals respectively; especially as, under the engagement of Her Majesty's late and present advisers to the Colonists, there is every reason to expect that the general control of the Waste Lands will soon be transferred from the Home to the Local Government. But I am compelled to recognise the strong grounds on which your application and that of the Legislative Council rests, and the justice of the appeal, on the part of the occupants themselves, to the Home Government, for its assistance in defining and securing those rights which they have acquired under its own acts.

4. Still the difficulty of decision on such a subject, with the materials in possession of Her Majesty's Government, is very great. Even the substantial facts on which the decision is to rest are by no means fully before me. I say this with no view of imputing blame to yourself or the local authorities, who have supplied me, no doubt to the full, with such information as they deemed requisite; but I am left ignorant of many things which are probably

so familiar in the Colony that they have not been thought to require specific notice. For instance, while I should rather have inferred from your despatch that the majority of stockholders in the Intermediate, as well as in the Unsettled districts, were still without leases, I consider it doubtful, from other statements in these papers, whether some leases for eight years may not have been actually given in the former districts. Again: I am altogether without information how the very important clauses in the Order in Council, which give the occupants in certain cases the right of exclusive purchase, and the right of pre-emption, are practically worked in the Colony: whether, for instance, the lessee has been held entitled, on any occasion, to demand the sale of land on valuation, or it has been always considered competent to the Governor to decline to accede to such demand. Yet these are important points, with a view to understanding the equitable relation which now subsists between the Government and the occupants, and without a fuller knowledge of these and other particulars than I possess, I feel that any adjustment proposed by Her Majesty's Government runs the risk of being founded on mistaken data.

5. I have done my best to remedy this deficiency by conversation with such persons, well acquainted with the Colony, as I could from time to time consult; and I have postponed taking any steps on your Despatches for a time, far longer than I should have otherwise judged advisable, partly in the expectation that further incidental intelligence from yourself might assist me, and not without hope, also, that some progress might be made towards adjustment, by further discussion and comparison of views in the Colony itself. I feel, however, that it is due to the important interest concerned that this delay should last no longer.

6. It is necessary that I should commence by stating, that Her Majesty's Government are perfectly satisfied with the reasons which you have adduced, why the portion of the Order in Council, which declares that actual leases shall be granted on demand, has hitherto remained a dead letter, and must probably long remain so, unless some equitable adjustment intervenes. They are satisfied that the circumstances of the Colony have rendered the Surveys, which were considered essential preliminaries to the execution of the leases, impracticable; and that such extensive Surveys will long be impracticable. This is an obstacle which no

one fully appreciated beforehand, and for which no one is justly responsible. But the occupants have, in addition, no ground, in my judgment, to complain of this delay; because, in fact, the burden lay on them, and not on the Local Government, under the terms of the Order in Council, and Regulations subsequently issued: as I understand them, to furnish such descriptions of their runs as might render it possible to grant a lease, and the assistance of surveys was a benefit offered them by the Local Government, and no part of their rights: and still more, because, in the absence of the leases, they seem to have enjoyed up to this time the full practical benefit of leases (except so far as regarded a sense of security for the future), and the various privileges which the Order in Council conferred nominally on leases only.

7. It must be farther stated, that it is perfectly clear that the real purpose of the Order in Council, was that fairly represented in paragraph 63 of your Despatch: namely—to give encouragement to those engaged in pastoral pursuits, the value of which to the Colony is fully explained in your Despatches, and fully recognised by Her Majesty's Government. It was intended to give them adequate use of the land for the purpose of their particular industry, and adequate protection against disturbance in it. It was not intended to give them advantages beyond other members of the community, towards becoming purchasers of Crown land, except to the very limited extent required for their actual accommodation: still less was it intended to enable them to become speculators in land, purchasing on terms peculiar to themselves, in order to sell again in the general market. And least of all was it intended that their pastoral occupation should stand in the way of the development of general population and industry, and of those facilities for the acquisition of land by the public at large which are essential to that development.

8. If the language of the Order in Council goes beyond these intentions, and if that language, coupled with the acts done under it, has conferred vested rights to an extent beyond what was at all foreseen, and now felt as a practical inconvenience, a very serious question undoubtedly arises between private claims and the general interest. I will not say that, in an extreme case, the latter must not prevail, and that vested rights must not give way, subject to such compensation as it may be practicable to give.

9. But I am not satisfied that it is necessary to resort to measures of this nature. It requires to be first considered whether the existing powers of Government will not suffice at once to maintain the intended principle, and to repress the abuse.

If the occupants insist on the extreme view of their rights, as controlling the obvious meaning of the concessions made to them, it becomes incumbent on Government to protect the public, by insisting also on the rigorous interpretation of the Order in Council, when its provisions may seem to clash with the public interests.

10. Now, the equitable rights of the occupants, on the strictest view, are also I think fully stated in your Despatch. I need only very briefly recapitulate those on which the questions now submitted to me turn. They appear to be entitled to demand leases, under the conditions respectively specified as to intermediate and unsettled lands, to be executed whenever it is possible for Government to take the necessary measures, for terms not exceeding eight and fourteen years respectively. They are entitled to a right of pre-emption when lands are put up for sale, at the end of each year of lease in the intermediate, of the last year in the unsettled district. They are entitled to an exclusive right of purchase in the unsettled districts, whenever Government thinks fit to sell them land during the currency of the lease. And they are entitled to renewal, under the conditions specified in section 16 of the Order in Council.

11. The limits to those rights, on the other hand, appear to be these, judging, as I am compelled to judge, only from the Order in Council itself, and subsequent legal documents issued by the Local Government; for it is impossible that I can fully appreciate the modifications which usage or understanding, recognised both by Government and the occupants, may have introduced in the Colony.

12. In the first place, as the occupants have been treated in all respects as lessees since the Order in Council was acted on in the Colony, any lease granted must fairly be considered as dated only from that period. This I understand to be the view of the Legislative Council, in which I fully concur. The date on which I understand them to have fixed, is the 7th April, 1848, to which I see no objection.

13. In the next place, the Order in Council promises these leases only for terms "not exceeding" eight and fourteen years

respectively. The squatters, indeed, appear to contend that these words are to be taken contrary to their plain import, as conveying a promise for the full extent of those terms, and I do not collect from any of your Despatches the impression of your own views on this very essential point. Mr. Forlonge, I observe, contends that the claimants in the unsettled districts have a positive "guarantee" for fourteen years, absolute. I can only say, that the most diligent examination of the papers has failed to show me any such guarantee. It cannot be seriously contended, for a moment, that a casual expression in the Despatch of Lord Grey, transmitting the Order in Council (on which I see some reliance is placed), taken also apart from its context, had the effect of adding to or altering the definite words of an Order in Council. And could this be maintained, it would be easy to show, from his Lordship's own subsequent Despatches, that he did not himself so interpret the Order. In a Despatch addressed to Sir Charles Fitz Roy, on the 6th August, 1849, he says:—"But inasmuch as the Order of the 9th March leaves the length of the term of years to be granted entirely at your discretion, you will be able and justly entitled to refuse to such persons any lease for more than a year, unless they are willing to accede to the insertion of the conditions which you may require."

14. It is hardly necessary to add, that as the occupants are now in the enjoyment of the full benefit of leases, without possessing them, so they cannot justly claim that the term of lease to be ultimately allotted to each, whether fourteen years or less, must run from the actual issue of such lease. The antedating of the lease will be strictly equitable, inasmuch as they have hitherto had the same equitable advantage as if it had so been issued.

15. In the next place, although the lessee in an unsettled district has an exclusive right of purchase (subject to what I shall have presently to say on the head of reserves), during the currency of his actual or assumed lease, I find no provision in Section 6 compelling the Governor to sell such lessee any land on his demanding it.

16. Nor do I find any provision in Section 15, or elsewhere, compelling the Governor to put up land for sale at the expiration of each year in the Intermediate Districts: or of the lease in the unsettled districts; nor any provision continuing the right of pre-

emption to the occupant at any future sale, when the Governor shall not have sold immediately on the expiration of the lease, and the lessee shall not have renewed, or shall have been prevented from renewing, by an alteration in the class of his land. And it must be added, that, considering the great difficulties which you point out as attaching to the system of sale by valuation, it would be obviously unreasonable to suppose that the Governor was compellable to exercise these powers of sale, when the public interest did not require it, merely in order to enable the lessee to exercise his exclusive or pre-emptive rights—those rights having really been given him only with a view to prevent interruption by others, not as a means of gain to himself.

17. In the next place, Section 9 of the Order in Council gives the power of making grants, or sales within the runs, and without any regard to exclusive or pre-emptive rights in the lessee, for many specified public purposes, including the purpose of digging for minerals, which may be of great importance in the present situation of the Colony: and, lastly, “for otherwise facilitating the Government and Settlement of the Colony.” Without entering at length into the controversy to which these words have given rise, it is enough for me to say that the very differences of opinion which have existed among Lawyers, as to their exact construction, entitle you, in my opinion, to put on them the more liberal one, as regards the requirements of the public. If this construction be legal, and I have no reason to doubt it, it is plainly that which ought to be adopted, both for the public advantage, and also with a view to the equitable redemption of the promises, and no more than the promises, intended to be made to the occupants themselves. It was intended to prevent land comprised in their runs from being sold by Government to parties purchasing for mere speculative purposes, and at the same time to enable it to be so sold (without regard to the lessees' right of exclusive purchase) where the public necessities of the Colony were such as to require it. When, therefore, you are of opinion that the progress of population and settlement in a particular quarter, has rendered it matter of public importance that enough land should be made available for the Agricultural supply of the wants thus created, you may, in my opinion, sell land to that extent, under the general sale regulations of the Colony, though situated within a run.

18. And, lastly, I consider it plain that Her Majesty's Govern-

ment have the power to make rules respecting the division, from time to time, of the land into Settled, Intermediate, and Unsettled Districts, by Order in Council. And considering the great change in the circumstances of Victoria, it is obvious that the time has arrived for a liberal exercise of that power. I am not indeed certain (but prefer on such a point to be guided by local experience), whether an entire abolition of the "Unsettled Class," and a very wide extension of the "Settled," leaving only the more distant portions as "Intermediate," would not be the best course. I shall therefore so delegate the necessary powers to the Governor, as to leave him absolutely free in this respect. The effect of such an extension would of course not be to interfere with subsisting leases, (whether actually granted or promised, and therefore assumed to exist). But it would, as it appears to me, destroy all right of renewal, except subject to the terms applicable to the class in which any run might by the change become included.

19. These are the powers which appear to me to be vested in Government, consistently with the equitable and literal engagement to the occupants, as far as they are to be collected from the Order in Council. But here the great difficulty to which I have referred at the outset of this Despatch meets me at once. I cannot collect, even from the mass of documents before me, how far the interpretation which I have put on these powers may be modified by the subsequent Acts, or declarations, or tacit assent of the Local Government, so as to give place to an interpretation more favourable to the squatters. The mere assertion of the latter I cannot of course take for granted. And I am fully aware, in cases of contract between Government and individuals, or classes of individuals, how easily a more favourable view of each provision towards the private person, and less favourable to the Government, becomes current in common expectation; how watchful individuals are in extending their rights, by implications and construction, and how little interest, comparatively, those who represent the Government have in resisting such extension. The only rule I can furnish you with is this; that where a construction more favourable than what I have laid down, rests only on some vague and general understanding, current among the classes benefited, it may be altogether disregarded, nor can any loss incurred by individuals, through the non-recognition of such an understanding, be considered as establishing a right to compensation. But where

such construction is so far supported by acts or declarations of the local Government, as to appear sanctioned by a pledge of the public faith, these individuals are entitled either to its maintenance, or (if this be impracticable) to reasonable compensation. I am aware that in laying on you the duty of distinguishing between these supposed cases, I impose a task of difficulty and delicacy, but it is unavoidable.

20. With regard to the duration of leases in particular, I have been led, partly by your silence on the subject, and partly by other circumstances, to infer that the claim of the squatters for leases of maximum duration, though contrary to the plain words of the Order in Council, may, nevertheless, have derived some force from the acquiescence of the local Government. If this is really the case, although I think it much to be regretted, my instructions must be regarded as open to some modification, in partial recognition of a claim thus substantiated.

21. Subject to these cautions, I have to authorise you to employ the various powers which, according to these views, belong to the local Government, as far as you may consider advisable; and I cannot but consider them as amply sufficient to insure to the community at large an adequate supply of available land, without infringing on the real rights of the squatters.

22. But with regard to these latter, it is by no means the wish of Her Majesty's Government that they should be placed in real difficulties, or their well founded expectations—expectations, that is, limited within the purpose for which these advantages were first given them—disappointed. I recognise to the fullest extent the great value of which their industry has hitherto proved to the community, and believe that, whatever may be the development of the Colony, under its present altered circumstances, pastoral pursuits will still furnish the most profitable and useful occupation to a considerable portion of its inhabitants. My only object is, that the extensive privileges which have been accorded them, may not be perverted by too literal claims to purposes for which they were not intended, and may also be exercised with manifest unfairness to other classes. It is to prevent this abuse that I have thought it necessary to point out, that if the rights of the Crown are insisted on with equal strictness, the use of those privileges will be very materially curtailed.

23. If, therefore, any occupiers of runs should apply for leases,

and should be content to receive leases exempt from those conditions, which are at once injurious to the community, and useless for merely pastoral purposes, you are fully authorised and desired to grant them. Such leases should contain no power of exclusive purchase during the term, or of pre-emption at the end of it, except with such limitations as should clearly confine such power to land really wanted by the lessee, for those purposes of homesteads and *bona fide* improvements, which are specified in paragraph 65 of your Despatch, which appears to me to contain a reasonable definition of pre-emptive right. They should also be subject to the power of the Government to resume from time to time, and offer for ordinary and open sale, after sufficient notice, land which may be really wanted for that purpose, in the judgment of those in whom the control of the public lands is vested.

24. To those who may prove willing to accept this offer, making thereby a concession of extreme rights, I would authorise you, in return, to make all reasonable concessions on the part of Government. As to the duration of their leases, for instance, I would leave you full discretion, to the extent of the maximum given by the Orders in Council, but dating the lease from the 7th April, 1848, as recommended by the Legislative Council. As the difficulties of accurate survey will no doubt continue for some time longer, I would leave you at liberty either to issue leases, with such general description of boundaries as the lessee may be content with, and (with the consent of the Legislative Council, if necessary) so to confirm these boundaries as to secure the lessee from any encroachment on the part of Government, leaving, of course, the right of third parties *inter se*: or, if the lessee preferred it, he might be allowed still to remain on the footing of an occupier, possessing an equitable title to a lease, until this could be executed with the more absolute precision which a survey would afford. I will not go farther into particulars, which must be far better understood on the spot, but only repeat my general instruction, that additional security and advantage to those who are willing to take these leases for *bona fide* pastoral purposes, and free from the objectionable conditions, will be a very fair purchase for the surrender of a portion of their present claims.

25. With regard to the substitution which you propose of an assessment on stock for present rent, I entertain some doubts whether much advantage will in reality be gained by such a mea-

sure ; but it is one on which I am quite ready to adopt the views to which your own local experience has led you.

26. Lastly : if there be any parties who would prefer to surrender the extreme rights of which I speak, for other compensation, or to whom injury may really be done by the disappointment of just expectations, which enforcing the powers of Government may occasion, it appears to me that both the land of the Colony (should the provisions of the present Waste Lands' Act be modified), and its public funds, might be very fairly resorted to for the purpose of affording such compensation ; and Her Majesty's Government would readily afford any assistance in their power towards it, on being moved to do so by address from the Legislative Council.

27. As to the manner in which the necessary measures are to be carried into effect, I have been reluctant to advise the exercise of the Queen's power of legislation, by amending the present Order in Council, because it appears to me desirable to try the effect of further arrangement and mutual understanding, before resorting to any measure which might be construed as a legislative invasion of vested rights. I have also considered that, under the engagements now subsisting between Her Majesty's Government and the people of Victoria, all the provisions of the Waste Lands' Act will (as before said) probably soon come under the revision of Parliament, when this particular portion of the subject can be more satisfactorily treated in connection with the rest. I prefer, therefore, waiting for a farther report from yourself, and using such power as may remain to the Crown, or be placed by Parliament at its disposal, to give validity to any measures which you (with the advice of your executive Council) may have adopted under those instructions.

28. I am ready, however, to cause to be prepared two short Orders in Council, the one empowering the alteration of the limits of the districts ; the other to enable you to substitute an assessment of stock for rent ; neither, however, to have any force in the Colony until publication there, the time of which will be left to your discretion. But, as these Orders must necessarily be laid before Parliament, which is not yet in session, some time must elapse before you can receive them, and it is possible that some intervening information from yourself may render them unnecessary.

29. I will not lengthen this Despatch farther than by expressing

my sincere hope that this very difficult and pressing question will be fairly adjusted, whether through the use of such means as are here placed in your power, or (which would be more satisfactory to myself) by mutual concessions and reasonable arrangement in the Colony. In this way only can the necessary progress of settlement, and the just demand of the increasing population for facilities in acquiring land, be reconciled with the preservation of that important interest whose claims are now under review.—I have the honour to be, Sir, your most obedient humble servant,

NEWCASTLE.

### No. 55.

*Extract from an "Address to the Colonists of New South Wales, on the proposed Land Orders," by Mr. R. Lowe, in 1847.*

These rules are in substance—that the Governor shall divide the lands of the Colony into three districts, to be called the "Settled," "Intermediate," and "Unsettled." The Settled lands are to be sold by auction at £1 an acre, upset price; and the unsold parts are to be leased for not more than one year, by auction. In the Unsettled lands, every holder of a licence is entitled to *demand* a lease for fourteen years. His rent is to be £2 : 10s. for every thousand sheep or 640 cattle which the run will carry. During the fourteen years nobody else can buy the run, but the lessee can buy any portion, not less than 160 acres, at £1 per acre, without competition. At the end of the lease, the lessee is entitled to a renewal for another fourteen years, unless at least one-fourth of the run be sold at auction, when the upset price will consist of £1 an acre, and the value of the improvements. In the Intermediate Districts, the lease is to be for eight years only, and the land is liable to be sold at the end of every year.

\* \* \* \* \*

"Once grant these leases, and beyond the settled districts there will be no land to be sold,—the lessees will have a right to hold their lands until some one will give £1 an acre for them."

"These leases cannot be sold, mortgaged, or sublet. Be the capabilities of these lands what they may, they are to be a sheep walk for ever. The Home Government, which raised the price of land to enforce concentration, is now, in the sequel of its policy, compelling dispersion.

"The squatter may make sure of his run at the end his lease, by buying up, in the exercise of his pre-emptive right, all the water and all the water frontage, thus rendering valueless to any one except himself.

"The price he is to pay for these privileges is, counting three sheep to an acre, one-fifth of a penny per acre. Thus does a Government, which is so niggard of its land that it will not part with the fee-simple of the most barren rock for less than £1 per acre, while that £1 an acre law remains in force, alienate millions of acres, at one-tenth of the rent which it received on its free grants. The system devised for the preservation of the waste lands will end in their confiscation.

"Deal liberally with the squatters—give them the most *ample compensation*—give them the land for nothing till it is wanted for purchase—comply with all their reasonable, nay more, with many of their unreasonable demands,—their present views have been forced upon them by the folly of the Home Goverment,—not originated by themselves; they are a great and growing interest, producing the main export of the Colony: respectable for their numbers, their *intelligence*, and their *wealth*. But we ought never to forget, that if we give over to them their territory, we are giving away what is not our own—we are trustees for posterity."

### No. 56.

*Opinion of T. H. Fellows, Esq. Barrister—3d June, 1854.*

"Holding as I do the opinion—formed not by party influence or feeling, but from a dispassionate consideration of the Order in Council, of the 9th March, 1847—that there is an express contract by the Crown, not only that the squatters shall have leases of their runs, but shall also have the right of pre-emption of the whole run upon the expiration of the leases, or at any time they please during their continuance."

### No. 57.

*Opinion of Roundall Palmer, Esq. M.P.*

"1. I am of opinion that Mr. Forlonge has a clear and indisputable right to the leases; but inasmuch as they are to be granted

by the authority of the Governor, who represents the Crown, and no form of judicial proceeding against the Governor is provided by the Act of Parliament, or by the Regulations, I do not think he has a specific remedy to compel the execution of such leases. At present, however, he has a complete equitable title, which the courts of justice in the Colony would, I conceive, be bound and authorised to recognise, and protest against any illegal encroachment, whether by the Executive Government or by private persons.

"2. I am clearly of opinion, that neither of the sections referred to gives the Governor power to withdraw any part of the runs in question (assuming as I do that no forfeiture has taken place) for the purposes of sale to private persons.

"3. I think Mr. Forlonge will be entitled to the right of pre-emption, under the 6th section.

"4. There is no course open to Mr. Furlonge, that I am aware of, except to appeal to the courts of justice in case of any illegal disturbance of his possessions.

"ROUNDALL PALMER.

"Lincoln's Inn, 26th July, 1853."

## No. 58.

### CHAMBER OF COMMERCE ON IMMIGRATION.

A special general meeting of the members of this body was held on Tuesday, to receive the report of the sub-committee appointed to consider the scheme proposed by the Chamber of Commerce in Sydney, for the application of the system of "direct remission for the purposes of immigration."

Mr. Hammill presided on the occasion.

Mr. Cruikshank, the chairman of the sub-committee, brought up the report. He stated that he should wish to premise the reading of the report by a few observations. The sub-committee, before entering on the subject of the Sydney scheme, had felt it their duty to enter previously into an inquiry on the tenure of the public lands here, and he had to observe, that the result of that inquiry was to stagger him, and he believed the rest of the committee, not merely as commercial men, but as individual colonists, either possessing or hoping to possess the fee-simple of the

land. The result of their inquiry was—that for the tenure of all the lands in the Colony they were dependent on the forbearance of the squatters. That the squatters might at any moment throw the whole of the public lands into Chancery. Any discontented or ill advised squatter, might at any moment apply to the Judges of the Supreme Court for an injunction to restrain the Government from alienating any of the Crown lands. What, he would ask, would be the consequence of such a step, if taken? The Judge would not dare to refuse such an application, and what would be the result? Simply, anarchy and confusion. If then the Direct Remission scheme were ever so good, would they, under such circumstances, be justified in recommending its adoption in reference to this Colony? The tenure of their land must be placed on a firm basis, before they could venture to invite immigrants to these shores. He then proceeded to read a Report, of which the following are extracts:—

Your committee, on perusing the Despatch of the Duke of Newcastle on the subject of the Crown lands, regret that such an unstatesmanlike document should ever have issued from the Colonial Office, and have little hesitation in coming to the conclusion, that while that despatch conveyed an implied censure on the late Lieutenant-Governor, for his procrastination in not dealing with the subject at an earlier period, the Colonial Minister availed himself of the opportunity thus afforded him, to shrink from the responsibility of deciding on the true construction of the Orders in Council specially referred to him, and thereby, in the opinion of your committee, lessened his dignity as a Minister of the Crown, the special pleading in his despatch confirming your committee in this opinion.

Your committee, in strongly urging the necessity for such a compromise as would leave the Crown lands of the Colony, from one extremity to the other, at once and for ever free, unfettered, and available for sale by auction when required, are of opinion that this would be best attained by compensating, to a moderate extent, the squatters—the present occupiers—who claim certain privileges under the Order in Council affecting these lands. And your committee are warranted in concluding that these occupiers consist principally of two classes, the one the original pioneers and settlers on Crown lands, the other those who have purchased stock on such lands on the faith of the Orders in Council being

carried out, and that they alike are entitled to compensation—the former from having had no opportunity of acquiring the fee-simple of such lands before they reached their present value, the latter from relinquishing certain privileges, purchased in good faith, now required for facilitating the "improvement and settlement of the Colony."

Your committee, assuming that all the squatters have exercised their pre-emptive right to purchase their homesteads, are of opinion that, in consideration of the relinquishment of the privileges conveyed under the 9th and 10th Victoria, cap. 104, and the Orders in Council based thereon, the squatters would be amply indemnified for any depreciation in the value of their stock agisted on Crown lands, by compensation at the rate of five shillings each for sheep, and thirty shillings per head for cattle; and to arrive at the sum this compensation would amount to, your committee avail themselves of the information contained in the "Government Gazette" of the 14th February, 1854, setting forth the estimated grazing capabilities of the Crown lands of the Colony, and this may be taken as a fair basis, being undisputed, on which to calculate the amount of compensation. The quantity of stock that can be agisted in each Commissioner's district we find to be—for that of

		Sheep.	Cattle.
Portland Bay,	- -	3,881,000	NIL
Western Port,	- -	1,738,000	58,680
Wimmera,	- -	1,677,000	19,360
Murray,	- -	1,311,000	600
Gipps Land,	- -	220,500	27,920
Grant, County,	- -	51,000	3,400
Bourke, do.	- -	8,000	1,280
Total,	- - -	<hr/> 8,916,500	<hr/> 111,330

which would require compensation, at the rate proposed, to the sum of £2,305,175 sterling.

Your committee are well aware, that if this amount had to be paid in money, it would prove an almost insurmountable obstacle to the settlement of the question; but, issued in the shape of remission orders, not bearing interest, available only for the purchase of Crown lands at auction, such a mode of liquidation would neither place the Government in any difficulty, nor saddle it with

any liability; and, these orders being productive to the holders, only after investment, would have such a favourable effect, although doubtless temporary, on the value of land offered for sale, from the avidity to invest, that the sale of a quantity, not exceeding 300,000 to 500,000 acres, might cover the money value of the compensation proposed; thus leaving nearly the whole of this vast territory free, unfettered, and available, both for the introduction of population and as a source of revenue.

Your committee deem it almost unnecessary, as being matter of detail, to enter upon the question of the re-adjustment of the rental, consequent upon such compensation being granted, but conceding to the present occupiers a right of tenure, terminable on one month's notice after the alienation of the fee-simple, it appears to your committee that an equitable revenue in the shape of annual rent might be derived from the Crown lands, until such alienation, equal to a fair interest on the money value of the compensation proposed to be granted to the squatters. And your committee assume eight per cent. per annum as a fair rate of interest, which would give the sum of £2,395,175 on an annual revenue of £191,614 sterling, subject only to a rateable deduction for the lands annually sold, in lieu of £25,000 estimated as the present rental. Furthermore, your committee, in suggesting a tenure not obstructive to the progress of the Colony, beg distinctly to state, that they cannot reconcile fixity of tenure with the squatting system, which must evidently now give place to a more legitimate alienation of the Crown lands.

Your committee, in concluding this portion of their report, would submit that the foregoing suggestions recommend themselves for approval on the following grounds. First, from the simplicity and economy with which they can be carried out. Secondly, whilst evincing sound financial policy, they prove a boon to the community at large, a loss to no one, and reconcile conflicting interests; and, thirdly, that on their adoption hinges the practical carrying out of the true object of the Direct Remission Scheme, as applicable to the Colony of Victoria, namely, the introduction of population, not in manual labourers only.

Your committee, after mature consideration, concur with the report of the sub-committee of the Sydney Chamber of Commerce in recommending the scheme of a Money Value Remission, available for the purchase of Crown lands at auction, in place of a

territorial apportionment, as the most equitable and satisfactory mode of attracting immigrants to these colonies. But your committee are not blind to the fact, that in New South Wales the system under consideration is practically inapplicable, as the Orders in Council relative to Crown lands are being carried out, which would deprive immigrants of the power to avail themselves of the advantages held out by this scheme, and would tend to throw the fee-simple of the bulk of the lands in that colony into the hands of the squatters, inasmuch as the proposal that the remission orders should bear a money value would render them available to the New South Wales squatters, as payment for the lands held by them under lease, when disposed to exercise their pre-emptive right to purchase, thus rendering the introduction of population comparatively useless, except as labourers only, and thereby enabling these squatters to accumulate larger profits, by diverting a national fund from its legitimate object, to the advantage almost solely of their own class. Under these circumstances, they would become importers of labour for their exclusive profit, and to this extent only would the Direct Remission Scheme prove advantageous to the Colony of New South Wales, the only attraction to emigrants being the prospect of receiving higher wages in that colony as labourers than in the mother country; whilst in the Colony of Victoria, with the land unlocked, and no class enjoying protective privileges, not only would the labouring class be attracted, but it would hold out equal inducement to every other class in the mother country to emigrate. With these remarks your committee close their notice of the applicability of the scheme of direct remission for the purposes of emigration to New South Wales, merely observing that a departure from true principles, in the alienation of Crown lands available for the purposes of immigration, perverts to the sole profit of a particular class a scheme which would otherwise prove of inestimable value in raising that colony, this, or any other similarly circumstanced, to a prominent position amongst nations. Your committee are, therefore, of opinion that they have established the soundness of the position they have taken in asserting that the true object of the Direct Remission Scheme, namely, the introduction of population, can only be practically carried out in a colony where Crown lands are free, unfettered, and available for sale by auction only, at any time, in any locality, and in any quantity, and that they have proved the absolute necessity for acquiring, by such a com-

promise as previously suggested, the cession of any vested rights which the squatters in this colony may possess in the Crown lands, obstructive to the improvement and settlement of the colony.

Your committee would recommend, that to encourage the ship-owner to become the banker for the object contemplated, the amount of remission should be liberal ; and are of opinion that £20, the rate named in the report of the sub-committee of the Sydney Chamber of Commerce, is too low. Your committee would suggest that the amount be £25, more particularly as the profit to the shipowner, as such banker, would be self-adjusting ; for in proportion to the demand for land would be the demand for such remission orders, thereby regulating the influx of population, as it is evident that any supply, exceeding the absorbing powers of the Colony, would depreciate the value of such order to the ship-owner ; but as the demand for remission orders revived, so would their value in the money market, thereby inducing the shipowner, as banker, to resume the speculation of advancing capital for the introduction of labour, with which therefore the Colonial market would never be glutted, but a regular supply be thus kept up. And with reference to interest on these remission orders, your committee consider that five per cent. per annum, would be a rate sufficiently high to protect the holder against any serious depreciation in their value in a tight state of the money market.

Your committee, in concluding their report, beg to express their appreciation of the ability displayed by the sub-committee of the Sydney Chamber of Commerce, in their consideration of the subject of Direct Remission for the purposes of immigration, and concede to them the merit of taking steps to initiate the practical working of the scheme.

By order of the sub-committee,

A. R. CRUIKSHANK, Chairman.

Chamber of Commerce, Melbourne, 31st July, 1854.

He concluded by moving the following resolution, which was seconded by Mr. T. Dickson :—

That the Report be received and printed for distribution, and that its merits be discussed at an adjourned meeting, to be held this day week, at the same time and place, on the motion to be then submitted, namely, that this Report be adopted, and that the

Legislative Committee be instructed to take the necessary steps to bring the scheme and its details under the notice of the Government, with the view to early legislation thereon.

The Chairman then observed that the report was of such an important character, in connection with the remarks of the Chairman of the Sub-Committee, that he thought it would not be well to enter into any discussion of it, until it had received the mature deliberation of all the members of the Chamber—a deliberation which he trusted they would, one and all, not fail to give it, before the meeting of this day week. He then signified that the business of the meeting was closed, and it accordingly separated.

N.B.—On the 10th August, Mr. T. Dickson moved, pursuant to notice, “that the report be adopted, and that the Legislative Committee be instructed to take the necessary steps to bring the scheme and its details before the notice of the Government, with the view to early legislation thereon, without pledging the Chamber to any amount of compensation”—which motion was carried by a majority of 12 over 2.

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### No. 59.

*Extract from the Draft of the proposed new Constitution of Victoria—last clause.*

“Provided that nothing herein contained shall prevent, or be construed to prevent, the fulfilment of any contract, promise, or engagement made by or on behalf of Her Majesty, with respect to any lands situate within the said Colony, in any cases where such contract, promise, or engagement shall have been lawfully made before the time at which this Act shall take effect within the said Colony.”

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### No. 60.

28th August, 1851.

To CAPTAIN LONSDALE, The Honourable the Colonial Secretary.

SIR,—Whereas His Excellency Charles Joseph La Trobe, Esquire, Lieutenant-Governor of the Colony of Victoria and its dependencies, &c. has notified by proclamation that the follow-

ing portions of land, situated upon my licensed run of "Trio," near Kyneton, in the county of Dalhousie, will be offered for sale at Melbourne, on the 17th proximo :—viz. portions 21, 22, 23, and 41, containing about 345 acres; and, whereas, by an Act passed in August, 1846, "it was enacted that it should be lawful for Her Majesty, by an Order in Council, to make and establish all such Rules and Regulations as to Her Majesty should seem fit for the purposes;" "respecting the more effectually making demises or licences, for any term of years not exceeding fourteen, and respecting any right of pre-emption which it might be proper to give to the holders of any demise or licence within the Colony of New South Wales." And whereas it was "ordered by the Queen's most Excellent Majesty, by and with the advice of the Privy Council, that, within the said Colony of New South Wales, the Rules and Regulations comprised in the following Chapters shall henceforth be observed, and have the force and effect of the law;" and whereas, by the 9th Section, 2d Chapter, His Excellency "is empowered to make grants or sales for public purposes, or disposing of in such other manner as for the public interest may seem best :" and whereas such section enumerates a *detailed* description of such public purposes, I have to submit to His Excellency, that the fact of enumerating such purposes in detail shows clearly, were there nothing else in the Rules and Regulations to provide against it, that it was never contemplated that such land should be offered for sale to private individuals for speculative purposes.

The 6th Section of the same Chapter provides, that "during the continuance of any lease of *lands occupied as a run*, the same shall not be open to purchase by any other person or persons, except the lessee thereof." And the 1st Section, 3d Chapter, provides that, "within lands coming under the description of Intermediate lands, the interest in runs shall be acquired, held, and determined upon the same terms and conditions as when laid down for Unsettled lands, excepting that the leases shall not be made for more than eight years in duration, and at the end of each successive year from the date of the lease it shall be competent for the Governor," "provided he shall have given 60 days, previous notice, to offer for sale all or any part of the lands within any such run, subject to the same conditions in favour of the lessee as above laid down in the case of a sale at the expiration of the

full term of a lease of unsettled lands ;" and whereas such section includes *all* the Rules and Regulation applicable to Intermediate lands, and as no lease has been granted, no power to sell is yet vested in the Governor, nor can be, until a year after a lease is granted.

The Sixth of the above recited Act, to amend an Act, &c. enacts, "That it shall be lawful for Her Majesty, by an Order or Orders in Council, to make and establish all such Rules and Regulations, provided always that nothing herein contained shall be construed to authorise the sale of any waste lands in the said Colonies, otherwise than in conformity with the provision of the said Act; except to persons who shall be in actual occupation thereof under such demise or licence." From which provision it is evident, that any lands beyond the bounds of location cannot be sold except to the persons in actual occupation, and to them only at a *fair value*, which value can be fixed by His Excellency, by the power he has of appointing an umpire, and which power counteracts any undue advantage there may be in the right of pre-emption : that I have to submit to His Excellency's consideration, that a wrong construction has been put upon the Rules and Regulations for the sale of land in the Intermediate district, which are applied contrary to the provisions in the Act of Parliament as above recited : that taking the whole Act, and the whole of the Rules and Regulations, as well as the Colonial proclamations sanctioning the transfer of runs, there is nothing to warrant or authorise the sale of any land beyond the bounds of location, except to persons in actual occupation : that as I have given a large consideration *for the transfer* of the "Trio" run, under a belief that Imperial Acts and Orders in Council would be held sacred, I feel it my duty to protest against the sale of the aforesaid portions of land : that I must respectfully beg to draw His Excellency's attention to the above mentioned Act, and to express a hope that His Excellency will be pleased to cause the said portion of land to be withdrawn from the forthcoming sale.

I may add, for His Excellency's information, that a considerable portion of the lands already sold in the neighbourhood of Kyneton has been bought on speculation : several lots have changed hands, and more is offered for sale, and scarcely any is yet brought under cultivation.—I have the honour to be, &c.

W. CAMPBELL.

## No. 61.

RETURN of the Dates of the Discovery of the Gold Fields of Victoria, laid upon the Council Table by the Colonial Secretary, by command of His Excellency the Lieutenant-Governor, and ordered by the Council to be printed, 18th December, 1851.

Locality.	Date of Discovery.	Distance from Melbourne.	Date when first occupied under the sanction of Government.
Clunes, . . . .	8 July, 1851.	100 Miles.	20 Sept. 1851.
Buninyong, . . . .	9 Aug. 1851.	75 —	20 Sept. 1851.
Ballarat, . . . .	8 Sept. 1851.	75 —	20 Sept. 1851.
Mount Alexander,	10 Sept. 1851.	80 —	8 Oct. 1851.
Anderson's Creek,	11 Aug. 1851.	16 —	1 Sept. 1851.
Broken River, . . .	29 Sept. 1851.	94 —	15 Oct. 1851.

## PART IV.

## No. 62.

LEGISLATIVE COUNCIL PAPER—CLAIMS TO LEASES OF RUNS.

*Return to Address, 31st August, 1852.—Mr. Campbell.*

Laid upon the Council Table by the Colonial Secretary, by command of His Excellency the Lieutenant-Governor, and ordered by the Council to be printed, 18th January, 1853.

A RETURN of the number of Transfers of Runs beyond the Settled Districts, acquired under the sanction of the Proclamation of Sir Charles Fitzroy, dated 1st January, 1848.

Wimmera District,	-	-	-	-	64 transfers.
Murray	"	-	-	-	112 "
Gipps Land	"	-	-	-	46 "
Western Port	"	-	-	-	119 "
Portland Bay	"	-	-	-	168 "
Bourke	"	-	-	-	1 "
Grant	"	-	-	-	4 "
				Total,	514 transfers.

A RETURN of the number of Claims to Leases obtained by Tender, from the 1st January, 1848, to the 1st July, 1852.

Wimmera District,	-	-	-	-	19 claims.
Murray	"	-	-	-	11 "
Gipps Land	"	-	-	-	16 "
Western Port	"	-	-	-	8 "
Portland Bay	"	-	-	-	7 "
				Total,	61 claims.

NOTE.—The estimated capabilities, and amount of premium paid in each respective case, cannot be furnished by a Return framed according to the wording of the motion.

## No. 63.

SYNOPSIS OF THE TRADE AND CUSTOMS OF THE DISTRICT OF PORT PHILLIP, NOW COLONY OF VICTORIA, FOR THE YEARS FROM 1844 TO 1850 INCLUSIVE.

	1844.	1845.	1846.	1847.	1848.	1849.	1850.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Duties on Spirits,	24773 14 6	25134 4 9	18932 14 7	25794 2 2	28008 2 4	34912 12 9	42736 12 4
" Tobacco,	9224 2 6	11736 11 10	13231 15 9	15851 12 3	17671 18 1	21257 0 7	25305 3 9
" Tea,	309 15 1	145 17 0	605 16 5	672 1 4	563 16 7	892 0 0	863 6 3
" Sugar,	516 16 6	797 2 6	733 19 11	1274 18 5	1181 6 8	1204 8 2	2087 9 11
" Flour and Grain,	25 12 6	651 18 8	614 18 1	538 2 2	685 12 3	681 2 1	707 13 9
" Wine,	320 16 8	1059 9 8	1211 17 6	1291 2 4	1619 6 4	1590 10 4	2124 7 10
" other Articles,	536 6 3	1649 13 11	2267 18 2	2948 2 11	3277 11 11	4587 15 3	5726 3 3
Entrance and Clearance Fees,	404 17 0	451 10 6	475 2 6	527 3 9	641 17 6	701 10 0	781 5 0
Light-House Dues,	205 18 7	186 16 10	220 4 6	250 16 2	421 10 8	984 15 3	1153 2 10
Wharfage,	767 0 9	1264 12 7	1606 6 7	— — —	— — —	1493 12 1	1833 9 5
Water Police Tonnage Duty,	178 4 9	141 13 6	187 2 6	227 18 3	338 3 9	706 19 9	915 11 9
Total Revenue,	37263 5 1	43119 10 9	39977 16 6	49375 19 10	54309 6 1	68812 6 3	84233 6 1
Value of Imports,	£151,062	£248,293	£315,571	£437,696	£373,676	£479,831	£744,925
" Exports,	256,847	463,597	425,201	638,511	675,359	755,326	1,041,796
Tonnage of Vessels Inwards, exclusive of Coasters,	19,483	31,337	40,569	47,885	67,618	97,003	108,030
Principal Articles of Export, viz.:—							
Beef, tons,	284	412	1,126	867	614	1,206	975
Candles, cwt.	122	40	440	24	27	55	324
Cattle, No.	2,435	3,638	4,926	6,050	6,696	5,168	5,287
Sheep, No.	44,515	28,320	31,107	54,535	64,191	55,670	57,422
Soap, cwt.	123	728	1,180	2,580	1,871	2,049	2,604
Tallow, tons,	429	377	112	661	1,345	3,482	4,489
Wool, lbs.	4,326,229	6,841,813	6,406,950	10,210,030	10,524,663	14,567,905	18,091,207

Custom-House, Melbourne, Victoria, 11th November, 1851.

(Signed)

JAMES CASSEL, Collector of Customs.

## No. 64.

*From the Melbourne Morning Herald of 10th June, 1854.*

## GOVERNMENT LAND SALE.

A sale of country lots was held yesterday at Messrs. Tennent's rooms. The competition was not equal to that of the previous day, with some few exceptions. It will be seen that the trustees of one of the land societies were purchasers of several lots. Seven lots were withdrawn, and nine lots passed for want of a bidder, leaving only 57 lots disposed of during the day.

## COUNTRY LOTS.

At Maribyrnong, on and near the Mount Alexander road, and from eleven to sixteen miles from Melbourne. Upset price, £1 per acre.

LOT										PER ACRE.	
										£	S.
1	640a,	William Taylor,	.	.	.	.	.	.	.	2	3
2	640a,	Do.	.	.	.	.	.	.	.	1	18
3	640a,	Do.	.	.	.	.	.	.	.	1	16
4	640a,	Do.	.	.	.	.	.	.	.	2	10
5	Withdrawn.										
6	Withdrawn.										
7	628a,	William Taylor,	.	.	.	.	.	.	.	4	0
8	628a,	Do:	.	.	.	.	.	.	.	3	5
9	628a,	Do.	.	.	.	.	.	.	.	2	15
10	611a,	J. Cantwell and P. Ryan,	.	.	.	.	.	.	.	1	18
11	628a,	William J. Clarke,	.	.	.	.	.	.	.	1	18
12	628a,	Peter Inglis,	.	.	.	.	.	.	.	2	2
13	622a,	John Mooney,	.	.	.	.	.	.	.	3	8
14	632a,	Do.	.	.	.	.	.	.	.	2	0
15	632a,	William J. Clarke,	.	.	.	.	.	.	.	1	6

At Kororoit, to the west of the Mount Alexander Road, and from seventeen to twenty-one miles from Melbourne.

16	202a,	Eli Smith,	.	.	.	.	.	.	.	3	0
17	620a,	William J. Clarke,	.	.	.	.	.	.	.	2	0
18	193a 3r 10p,	William Montgomery,	.	.	.	.	.	.	.	3	6
19	211a 3r 32p,	Ditto,	.	.	.	.	.	.	.	3	7
20	211a 3r 32p,	A Fiskin,	.	.	.	.	.	.	.	3	3
21	214a,	Ditto,	.	.	.	.	.	.	.	3	7
22	184a,	William J. Clarke,	.	.	.	.	.	.	.	4	1

23	171a, William Montgomery,	.	.	.	.	.	4	12
24	179a, Ditto,	.	.	.	.	.	4	12
25	161a, Ditto,	.	.	.	.	.	6	7
26	150a 16p, Fulton and others,	.	.	.	.	.	3	16
27	153a, Ditto,	.	.	.	.	.	3	14
28	169a, Ditto,	.	.	.	.	.	4	0
29	144a 2r, Alfred Langhorne,	.	.	.	.	.	6	0
30	614a 3r 9p, A. Fiskin,	.	,	.	.	.	3	0
31	620a, William J. Clarke,	.	.	.	.	.	1	11
32	624a, Ditto,	.	.	.	.	.	1	16
33	627a 2r 12p, Ditto,	.	.	.	.	.	2	7
34	102a, William Montgomery,	.	.	.	.	.	4	0
35	159a 2r 8p, T. and J. Moylan,	.	.	.	.	.	4	0
36	158a, Ditto,	.	.	.	.	.	4	2
37	163a, Fulton and others,	.	.	.	.	.	4	8

At Holden, on road from Melbourne to Mount Alexander, and from sixteen to twenty-one miles distant. Lots 38 to 42 withdrawn.

43	225a, William J. Clarke,	.	.	.	.	.	2	15
44	162a 3r 3p, Do.	.	.	.	.	.	2	1
46	553a, Michael Bourke,	.	.	.	.	.	3	10
47	624a, William J. Clarke,	.	.	.	.	.	2	8
48	600a, John Mooney,	.	.	.	.	.	6	0
49	632a, John Aitkin,	.	.	.	.	.	4	15
50	216a, Wm. John Clarke,	.	.	.	.	.	4	1
51	147a, Fulton and others,	.	.	.	.	.	4	2
53	136a, James McCartney,	.	.	.	.	.	5	1
54	160a, Joseph Harper,	.	.	.	.	.	7	1
55	160a, Do.	.	.	.	.	.	7	1
56	160a, Edward Winter,	.	.	.	.	.	7	2
57	152a, Do.	.	.	.	.	.	7	6
58	584a, John Aitkin,	.	.	.	.	.	3	16

At Deutgam, near the Geelong Road, and about sixteen miles from Melbourne.

59	632a, T. Churnside,	.	.	.	.	.	1	0
60	612a 3r 16p, Do.	.	.	.	.	.	1	5

At Warrandyte, on the Yarra River, above Bulleen, and from seventeen to twenty-one miles from Melbourne.

61	640a, Thomson Bros.	.	.	.	.	.	2	0
62	640a, John Patterson,	.	.	.	.	.	1	1
63	640a, Edmund Hughes,	.	.	.	.	.	1	7
64	640a, E. H. Mochick,	.	.	.	.	.	1	0
65	to 73 (640 acres each)—No offer.							

LIST OF PURCHASERS' NAMES AT THE GOVERNMENT LAND SALE,  
GEELONG, June 29th, 1854.

SUBURBAN LOT, MOOLAP.

1 Allot 10, sec. 1, 557a, or 34p, J. G. Carr, £5 18s. per acre.

COUNTRY LOTS, BELLERINE.

2 to 6, No offer.

7 Allot 10, sec. 3, 320a, Thomas Little, £1 per acre.

8 No offer.

9 Allot 13, sec. 3, 362a 3r 8p, Alexander Cameron M'Donald, £1 per acre.

10 Allot 14, sec. 3, 437a or 32p, J. B. Hutton, £1 7s. per acre.

11 and 12 Withdrawn.

13 Allot 19, sec. 3, 320a, James Marjerey, £1 5s. per acre.

14 Allot 20, sec. 3, 320a, John Guthrie, £1 3s. per acre.

15 Allot 21, sec. 3, 538a, James Marjerey, £1 11s. per acre.

16 Allot 1, sec. 4, 320a, William Rowe, £2 8s. per acre.

17 Allot 2, sec. 4, 320a, J. B. Hutton, £1 13s. per acre.

18 Allot 3, sec. 4, 328a, James Drummond, £1 per acre.

19 Allot 4, sec. 4, 312a, James Drummond, £1 9s. per acre.

20 Allot 6, sec. 4, 320a, Joseph Sutherland, £1 4s. per acre.

21 Allot 7, sec. 4, 328a, William Behan, £1 per acre.

22 No offer.

23 Allot 13, sec. 4, 320a, James Marjerey, £1 per acre.

24 Allot 14, sec. 4, 320a, James Marjerey, £1 per acre.

25 No offer.

26 Allot 16, sec. 4, 312a, William Harding, £1 per acre.

27 Allot 18, sec. 4, 320a, William Harding, £1 8s. per acre.

28 Allot 19, sec. 4, 328a, William Harding, £1 6s. per acre.

29 Allot 20, sec. 4, 312a, William Harding, £2 8s. per acre.

30 Withdrawn.

PAYWIT.

31 Allot 15, sec. 1, 324a, William Harding, £5 per acre.

32 Allot 16, sec. 1, 324a, William Harding, £2 19s. per acre.

33 Allot 17, sec. 1, 324a, William Harding, £1 11s. per acre.

34 Allot 18, sec. 1, 324a, William Harding, £1 4s. per acre.

35 Allot 22, sec. 1, 320a, William Harding, £2 12s. per acre.

36 Allot 23, sec. 1, 320a, William Harding, £1 11s. per acre.

37 Allot 24, sec. 1, 320a, William Harding, £1 per acre.

38 Allot 25, sec. 1, 320a, William Harding, £1 per acre.

39 Allot 28, sec. 1, 320a, J. & P. Manifold, £1 17s. per acre.

- 40 Allot 29, sec. 1, 320a, J. & P. Manifold, £1 13s. per acre.  
 41 Allot 30, sec. 1, 320a, J. & P. Manifold, £1 10s. per acre.  
 42 Allot 31, sec. 1, 320a, William Harding, £1 1s. per acre.  
 43 Allot 32, sec. 1, 320a, William Harding, £1 9s. per acre.  
 44 Allot 35, sec. 1, 320a, J. L. Sprout, £1 4s. per acre.  
 45 Allot 36, sec. 1, 320a, J. L. Sprout, £1 1s. per acre.  
 46 Allot 37, sec. 1, 320a, J. L. Sprout, £1 10s. per acre.  
 47 Allot 38, sec. 1, 320a, J. L. Sprout, £2 5s. per acre.  
 48 Allot 39, sec. 1, 281a, William Harding, £4 per acre.  
 49 to 52 Withdrawn.

## SUBURBAN LOT, CORIO.

- 53 Allot 1, sec. 1, 1a, Noble Keenan, £505 per acre.

## No. 65.

## LEGISLATIVE COUNCIL PAPER.

RETURN of the Quantity of Land alienated from the Crown, from the 30th June, 1851, to the 1st July, 1852, showing the number of Acres, the average Price per Acre, &c. &c.

	Extent.		Average Price per Acre.	Proceeds.		
	ACRES.	R. P.		L.	S.	D.
Town Lots, . . .	512	1 10	159 17 7	81,909	1	0
Suburban, . . .	13,956	1 0	4 5 1	59,452	13	6
Country, . . .	128,421	1 21	1 6 7	176,994	3	1
Special County,	6,388	3 17	2 7 7	15,209	4	4
	149,278	3 8		327,565	1	11

No. 66.

LEGISLATIVE COUNCIL PAPER.

RETURN of the TOTAL QUANTITY of LAND alienated from the Crown in the Colony of VICTORIA, from the year 1837, to the 30th June, 1851, specifying the Number of Acres, and the Average Price per Acre, in Town, Suburban, and Country, in each year.

DATE OF SALE.	TOWN LANDS.			SUBURBAN LANDS.			COUNTRY LANDS.				
	Quantity.	Average price per Acre.		Amount.	Quantity.	Average price per Acre.		Amount.	Quantity.	Average price per Acre.	
		£	s.			£	s.			£	s.
1837	Acres r. p.	£	s.	d.	Acres r. p.	£	s.	d.	A. R. P.	£	s.
1837	87 3 20	80	19	6	7,116	0	0	0	38,653	0	0
1838	41 1 4	211	10	0	8,729	16	0	0	24,636	0	0
1839	57 0 8	157	12	6	8,992	13	4	13,687	1 22	3	13
1840	124 3 11	647	6	6	80,794	15	0	9 10	0	0	16,080
1841	• • •	390	18	11	1,792	10	0	55	0	0	9 13
1842	4 2 20	111	10	9	725	0	0	242	2 32	2	0
1843	6 2 0	84	8	7	462	5	0	175	2 4	3	0
1844	5 1 36	112	17	0	1,771	15	0	2,112	0 21	2	11
1845	15 2 32	6,114	7	0	4,099	1	6	3	1 0	12,620	14
1846	42 1 20	23,765	16	0	8,830	0	19	2	15	24,661	17
1847	149 1 12	201	0	0	6,047	0	0	2,692	0 21	6,864	19
1848	31 0 24	139	0	0	13,381	7	0	10,241	0 36	3	11
1849	95 3 29	72	0	0	21,554	17	6	7,930	0 12	4	6
1850	298 3 19	115	0	0	11,916	4	0	2,522	0 10	5	18
1851	103 1 27	182	0	0	193,164	5	10	57,421	2 27	4	0
Totals . .	1064 1 22	182	0	0	231,579	16	5	332,608	1 25	1	1
										0	0
										352,097	4 11

Surveyor-General's Office, Melbourne, 10th May, 1852.

(Signed) R. HODDLE, Surveyor-General.

No. 67.

LEGISLATIVE COUNCIL PAPER.

RETURN of LAND in the COLONY of VICTORIA, SOLD BY PUBLIC AUCTION, with the AMOUNT of the Gross Proceeds and the QUANTITY of LAND alienated by PRIVATE SALE, and the Gross Proceeds, from the year 1837 to the 30th June, 1851.

DATE OF SALE.	SOLD BY PUBLIC AUCTION.		SOLD BY PRIVATE SALE.		TOTALS.	
	A.	R. P.	Quantity.	Gross Proceeds.	Quantity.	Gross Proceeds.
	A.	R. P.	s. d.	A.	R. P.	s. d.
1837	87	3 20	7,116 0 0	.	.	.
1838	38,694	1 4	33,976 12 6	.	.	.
1839	38,280	1 30	70,236 9 10	.	.	.
1840	83,560	2 19	219,300 3 2	.	.	.
1841	.	.	.	49,311 0 27	49,311 3 3	.
1842	699	3 16	6,087 2 0	15,998 0 0	15,998 0 0	.
1843	456	3 32	1,415 1 3	6,881 1 0	6,881 5 0	.
1844	181	0 0	985 4 6	.	.	.
1845	2,127	3 13	7,160 17 10	1,557 1 28	1,557 8 6	.
1846	4,301	2 26	18,895 1 8	209 0 0	209 0 0	.
1847	21,471	2 39	63,073 2 2	5,865 2 32	6,049 6 0	.
1848	13,064	3 8	27,272 15 1	4,280 0 26	4,443 1 9	.
1849	18,852	3 2	61,229 13 7	8,757 1 7	8,916 5 11	.
1850	22,936	2 2	80,553 14 8	17,105 1 34	17,415 18 6	.
1851	18,318	3 13	50,697 15 0	18,003 3 16	18,970 5 0	.
Totals . .	263,035	0 24	646,999 13 3	128,059 1 10	129,841 13 11	.
						391,094 1 34
						776,841 7 2

Surveyor-General's Office, Melbourne, 10th May, 1852.

(Signed) R. HODDLE, Surveyor-General.

## No. 68.

LEGISLATIVE COUNCIL PAPER.

RETURN, under the heads of Town, Suburban, and Country, of the Quantities of Waste Lands, in the Colony of Victoria, Surveyed but not Alienated, showing the Counties or Districts wherein such Lands are situate.

COUNTIES OR DISTRICTS.	LANDS SURVEYED BUT NOT ALIENATED.						REMARKS.	
	Town.			Suburban.				
	A.	R.	P.	A.	R.	P.		
County of Follett, . . .	36	2	0	115	0	0	.	
do. Normanby, . . .	53	2	0	2,862	1	29	3,969 2 29	
do. Dundas, . . .	137	0	0	549	0	15	.	
do. Villiers, . . .	231	0	0	4,334	2	38	6,661 0 34	
do. Ripon, . . .	36	2	0	.	.	.	.	
do. Hampden, . . .	33	2	0	.	.	.	.	
do. Heytesbury, . . .	.	.	.	.	.	.	.	
do. Polworth, . . .	36	2	0	175	1	3	76,956 2 0	
do. Grenville, . . .	81	0	0	310	1	37	35,469 0 0	
do. Talbot, . . .	101	0	0	2,405	2	18	.	
do. Grant, . . .	364	1	0	5,008	2	21	339,038 1 26	
do. Bourke, . . .	296	3	29	9,140	2	31	218,088 1 17	
do. Dalhousie, . . .	170	2	0	6,227	2	31	.	
do. Anglesey, . . .	.	.	.	.	.	.	.	
do. Evelyn, . . .	15	2	0	84	3	12	49,427 2 0	
do. Mornington, . . .	70	0	0	.	.	.	37,109 0 13	
District of Murray, . . .	293	0	0	4,431	3	39	.	
do. Wimmera, . . .	74	0	0	326	1	18	.	
Gipp's Land, . . . .	141	2	0	1,509	0	20	.	
Totals, . . . .	2171	0	29	37,481	3	1	766,719 2 39	

(Signed) R. HODDLE, Surveyor-General.

Surveyor-General's Office, Melbourne, 10th May, 1852.

## No. 69.

## LEGISLATIVE COUNCIL PAPER.

RETURN of LANDS ALIENATED under PRE-EMPTIVE Right, in the PORT PHILLIP DISTRICT, (now the COLONY OF VICTORIA.)

DATE OF APPLICATION.	NAME OF APPLICANT.	NUMBER OF ACRES APPLIED FOR.	LOCAL DESCRIPTION.	NAME OF VALUATORS.	Estimated Value of Improvements (if any), per Acre.		Valuation of Interests of Improvement, per Acre.	Number of Acres Alienated.
					A.	R. P.		
31st March, 1848,	Thomas Manifold,	303 2 0	Portion No. 10, parish of Meerni	Advertised at 20s per Acre	Nil.	£1.	303 2 0	
27th April, 1850,	John Learmonth,	480 0 0	Lots A. B. and C., portion 1, 160 acres each, near S.W. corner of Buninyong Township Reserve, County of Grant;	W. N. Gray, Esq. Crown Commissioner, - - -	Nil.	£1.	480 0 0	
27th May, 1850,	Hugh Murray,	632 0 0	Section 1, parish of Ellimynt, adjoining East Boundary of Colac Township Reserve, County of Polworth, -	Ditto do.	Nil.	£1.	632 0 0	
2nd Sept. 1850,	Frederick and John Manning,	164 1 20	Portion No. 15, parish of Purnim, County of Villiers, - - -	Advertised at 20s per Acre	Nil.	£1.	164 1 20	
24th Dec. 1850,	John Good,	203 3 28	Portion No. 12, parish of Coorambool, County of Villiers, -	Ditto do.	Nil.	£1.	203 3 28	

Surveyor-General's Office, Melbourne, 10th May, 1852.

(Signed) R. HODDLE, Surveyor-General.

## No. 70.

## LEGISLATIVE COUNCIL PAPER.

RETURN of LANDS APPLIED FOR under PRE-EMPTIVE RIGHT, but NOT YET GRANTED.

Date of Application.	Name of Applicaut.	No. of Acres applied for.	Local Description.	Cause of Delay.
26th Sept. 1850	Stewart Gibson, -	A. 160	Situate on the east side of the Bullock Creek, at Mount Alexander, on the run known as "Mount Alexander," so as to include the Home Station on such run.	Waiting further instructions as to measurement, &c.
23rd Oct. 1850	C.A.Von Steiglitz	200	Situate on a chain of water holes, about 16 miles from the Township of Ballan, between the Werribee and Moorabool Rivers.	Ditto, ditto.
28th Nov. 1850	Henry Gibb, - -	320	Situated on the run known as Eilyer, in the Portland Bay District, on the Salt Creek below Lake Bolac.	Ditto, ditto.
15th Nov. 1850	Donald Cameron,	160	Situated near to Mount Eckersley, on the run known as "Oak Bank," in the Portland Bay District.	Waiting further instructions as to valuation.
15th Nov. 1850	Donald Cameron,	120	Situated near to Mount Eckersley on the run known as "Hunter's Farm," in the Portland Bay District.	Waiting valuation &c.
5th Nov. 1850	T. H. Pyke, - -	640	Situated near to the Township of Ballan, on the run known as the "Upper Werribee Run," in the Western Port District.	Waiting further instructions as to measurement, &c.
18th Oct. 1850	John Aitken, - -	2000	Situated near the Township of Gisbourne, on the run known as Messrs. "Aitken and Emeline's," in the Western Port District.	Ditto, ditto.
6th Aug. 1850	Chas. McLachlan	640	Situated on the Myrnong Creek, in the parish of Korkuperrimul, in the run known as Pentland Hills, in the Western Port District.	The portion being included within a proposed Reserve, and to what extent the application shall be allowed, being undetermined.
4th Oct. 1850	Broadhurst and Tootal, - - -	640	Situated 1½ miles north of the top of the Big Hill, about 4 miles south of the Town of Kilmore, in the run known as "Belle Vue," in the Western Port District.	Waiting further instructions as to measurement, &c.
31st Aug. 1850	W. H. F. Mitchell,	320	Situated on the Campaspie River, about 7 miles south of Farrell's Inn, on the run known as "Barfold," in the Western Port District.	Ditto, ditto.
28th Aug. 1850	J. Anthony Cowie	640	Situated on the eastern Moorabool, on the run known as "Bunjellap West," in the Portland Bay District.	Ditto, ditto.

Date of Application.	Name of Applicant.	No. of Acres applied for.	Local Description.	Cause of Delay.
28th Aug. 1850	David Stead, -	A. 480	Situated on the eastern Moorabool, on the run known as "Bunjellap East," in the Portland Bay District.	Waiting further instructions as to measurement, &c.
4th Sept. 1850	John Winter, -	340	Situate on the run known as "Bonshaw," Township of Buningyong, at the junction of the Portland Road from Melbourne with the Burrumbeet Road.	Ditto, ditto.
4th Sept. 1850	John Winter, -	1,600	Situate on the River Leigh, about 20 chains below the crossing of the Buningyong and Portland Roads, on the run known as "Bonshaw," in the Portland Bay District.	Ditto, ditto.
15th July, 1850	Joseph Sutherland	2,012	Situated adjoining the Northern boundary of the Kilmore Special Survey, on the run known as "Manding," in the Western Port District.	Ditto, ditto.
10th Sept. 1850	R. V. Steiglitz, -	160	Situated on the east side of the Werribee River, adjoining the northern boundary of the Ballan Township Reserve, on the run known as "Ballan," in the Portland Bay District.	Ditto, ditto.
10th Sept. 1850	John Von Steiglitz	320	Situated on the east side of the Werribee River, north-west of the Ballan Township Reserve, on the run known as "Ballan," in the Western Port District.	Ditto, ditto.
6th Aug. 1850	George Russell, on behalf of the Clyde Company	935	Situate on the right bank of the River Leigh, being section No. 5, in the Parish of Durocq.	Ditto, ditto.
4th July, 1850	Frederick Griffin	2000 to 4000	Situate at the head of Sutherland's Creek, on the run known as Anaki, in the Portland Bay District.	Ditto, ditto.
22nd July, 1850	John Wallace, -	960	Situated on the Moorabool River, on the run known as Ballank, in the Portland Bay District.	Ditto, ditto.
17th Dec. 1850	John Hepburn, -	1,000	Situate on the run named "Smeaton," in the Western Port District, having frontage to a Creek, and including a permanent Sheep yard.	Waiting for the Report of the Land Board, being included within an Agricultural reserve.
30th June, 1850	S. and T. Austin,	1,174	Section 9 of the Parish of Lake Wollard, situated at the eastern side of the Barwon River, in the County of Grant, and forming part of the run known as "Waterloo Plains."	Waiting further instructions as to measurement, &c.
8th Aug. 1850	R. Sutherland, -	640	Situated on the Barghurg Creek, at Stewart's Inn, on the road from Geelong to Boninyong, and forming part of the run known as "Native Hut Creek," in the Portland Bay District.	A Reserve being recommended at this spot.
8th Aug. 1850	R. Sutherland, -	640	Situated at the head of the Native Hut Creek, in the County of Grant, and forming part of the run known as "Native Hut Creek."	Waiting further instructions as to measurement, &c.

Date of Application.	Name of Applicant.	No. of Acres applied for.	Local Description.	Cause of Delay.
10th July, 1850	Peter Inglis, -	A. 352	Situated on the Werribee River, the western boundary line of the Parish of Gorrochgap, being distant 1 mile 48 chains. It forms portion of the run known as "Lal Lal," in the Portland Bay District.	Waiting further instructions as to measurement, &c.
13th Feb. 1849	R.D.Chamberlain	160	Situated on the right bank of the River Moyne, immediately outside the boundary of the Settled District at Belfast, and forming part of the run known as "Yarram," in the Portland Bay District.	Waiting further instructions as to valuation, &c.
5th Oct. 1850	Riddell & Hamilton,	350	Situated near the Township of Gisborne, having frontage to a Creek which empties itself into the Salt Water River. It forms part of the run known as "Cairn Hill," in the Western Port District.	Waiting valuation, &c.
26th Sept. 1850	Riddell & Hamilton,	640	Situated adjoining to the eastern boundary of the Police Paddock Reserve at Gisborne, having frontage to a Creek forming the western branch of the Salt Water River. It forms part of the run known as "Cairn Hill," in the Western Port District.	Ditto, ditto.
22d Oct. 1850	Charles Ryan, -	160	Situated between the Goulburn and Murray Rivers, on the Nine Mile Creek, which forms its eastern and western boundaries. Upon it Mr. R's homestead stands.	Waiting further instructions as to measurement, &c.
17th Dec. 1850	E. G. Bucknall, -	640	Situated on the Deep Creek in the County of Talbot, and forming part of the run known as "Rodborough Vale," in the Western Port District.	Ditto, ditto.
17th Dec. 1850	E. G. Bucknall, -	640	Situated on the Deep Creek, and immediately opposite the land last described.	Ditto, ditto.
23d Jan. 1851	W. H. Bacchus, -	200 to 350	Situated on the east side of Lal Lal Creek, and forming part of the run known as "Peerewerrh," in the Portland Bay District.	Waiting further instructions as to valuation, &c.
25th Jan. 1851	T. & S. Learmouth	4,160	Situated about one mile north of the most northerly point of Lake Burrumbeet.	Waiting further instructions as to measurement, &c.
25th Jan. 1851	T. & S. Learmouth	2,560	Situated on the northern side of the Maiden Hills, near the source of Mount Greenock Creek.	The land applied for being included within a Village Reserve recommended by Mr. Urquhart, in April, 1849.
5th Feb. 1851	Whyte, Brothers,	960	Situated on the eastern and western sides of the Water Holes at the Home Station, at the run known as "Kongongwootong," in the County of Dundas, and District of Portland Bay.	Waiting further instructions as to measurement, &c.

Date of Application.	Name of Applicant.	No. of Acres applied for.	Local Description.	Cause of Delay.
5th Feb. 1851	Whyte Brothers,	A. 80	Situated one mile south of Water Holes, mentioned in the land last described.	Waiting further instructions as to measurement, &c.
5th Feb. 1851	Whyte, Brothers,	640	Situated immediately opposite the land last described.	Ditto, ditto.
26th Dec. 1850	Donald Cameron,	320	Situated on the western side of the Deep Creek, called the "Sullaroop Creek," and near the Home Station in the run known as "Clunes," in the Western Port District.	Ditto, ditto.
26th Dec. 1850	Donald Cameron,	160	Situated immediately opposite the land last described.	Ditto, ditto.
14th Feb. 1851	Griffiths & Greene	450	Situated on the River Werribee, in the Parish of Parwan, comprising part of the measured Sections 27, 28, 29, and 33.	Waiting the Report of the Land Board.
14th Feb. 1851	Griffiths & Greene,	600	Part of Section 33, Parish of Parwan.	Ditto, ditto.
18th Feb. 1851	John Calvert, -	881	Situated on the Lake Colac, being portions of Section 19, of the Parish of Irrewarra, and forming part of the run known as "Irrewarra," in the Portland Bay District.	Waiting further instructions as to measurement, &c.
5th March, 1851	John Calvert, -	389a. 38p.	Situated on the Lake Colac, and adjoining to the land last described.	Waiting further information and instructions.
8th March, 1851	John Brock, -	800 to 1000	Situated on the Emu Creek, at a point where it crosses the Twenty-Five-Mile boundary line, and forming part of the run known as "Bullanda Vale," in the County of Bourke and District of Western Port.	Waiting further instructions as to measurement, &c.
19th March 1851	John Wallace, -	640	Situated near mount Wallace, on a Creek at an Out Station called "Bourke," lying about two miles south-easterly from the Home Station, on the run known as "Bal-lauk," in the Portland Bay District.	Ditto, ditto.
31st March, 1851	William Campbell	1,442	Situated on the Campaspie River, in the Parish of Lauriston, and adjoining to the Village Reserve of Kyneton, and forming part of the run known as "Trio," in the Portland Bay District.	These lands being proclaimed for sale at the time claimed by Mr. Campbell, under pre-emptive right.
3d April, 1851	Simon Staughton	3,440	Situated on the south side of the Little River, and forming part of the run known as "Brisbane Ranges," in the Portland Bay District.	Waiting further instructions as to measurement, &c.
3d April, 1851	S. & W. Jackson,	640	Situated on the south side of the River Wannon, and forming part of the run known as "Sandford," in the Portland Bay District.	Ditto, ditto.

Date of Application.	Name of Applicant.	No. of Acres applied for.	Local Description.	Cause of Delay.
14th April, 1851	Addison & Murray	A. 960	Situated on the west side of the River Glenelg, opposite to the point of junction of that River with the Wando, and forming part of the run known as "Dunrobin," in the Portland Bay District.	Waiting further information respecting a Reserve proposed in this locality.
19th April, 1851	J. & P. Manifold,	640	Situated on the north side of Lake Purrumbete, so as to include the Head Station on the run there held by Messrs. Manifold, in the Portland Bay District.	Waiting further instructions as to a Reserve within which this portion is included.
2d May, 1851	W. H. Dunsford,	640	Situated so as to include the Homestead and improvements on the run known as "Lancefield," in the Western Port District.	Waiting further instructions as to measurement, &c.
Sept. 1850	Booth and Argyle	1,334a. 2r.16p.	Situated on the western side of the Campaspie River, in the parish of Lauriston, and forming part of the run known as "St. Agnes," in the Western Port District.	Waiting the decision of the Executive Council; the lands claimed having been proclaimed for sale.
27th March 1851	William Campbell	1,600	Situated on the north side of the Campaspie River near Carlsruhe, the Parish of Lauriston being its western boundary. It forms part of the run known as "Trio," in the Western Port District.	Waiting the decision of the Executive Council. The lands are included in the Carlsruhe Agricultural Reserve.
4th May, 1851	James Webster, -	160	Situated on the Muddy Creek, so as to include the Homestead and improvements, on the run known as "Burnanto," in the Western Port District.	Waiting a corrected description of the land applied for.
10th May, 1851	J. G. Ware, - -	320	Situated on Lake Timboon, having the Timboon Creek for its eastern boundary. It forms part of the run known as "Merdewarrook," in the Portland Bay District.	Waiting further information as to a Reserve proposed in this locality.
10th May, 1851	J. G. Ware, - -	960, or 1,280	Situated so as to include the Homestead and improvements, on the run known as "Koort Koortnong," in the Portland Bay District.	Waiting further instructions as to measurement, &c.
26th May, 1848	Robert Mailor, -	160	Situated on the western side of the Merri River, near Warrnambool, so as to include the Homestead and improvements on Mr. Mailor's run.	Waiting measurement, &c.
27th May, 1851	G. F. Read, jun. -	640	Situated so as to include the Homestead and improvements, on the run known as "Borharyghark," in the Portland Bay District.	Waiting further instructions as to measurement, &c.
27th May, 1851	G. F. Read, jun. -	640	Situated so as to include the Homestead and improvements, on the run known as "Cargerie," in the Portland Bay District.	Ditto, ditto.

Date of Application.	Name of Applicant.	No. of Acres applied for.	Local Description.	Cause of Delay.
31st May, 1851	James and John Thompson,	A. 640	Situated on the north east side of Lake Keilambeet, on the run known as "Keilambeet," in the Portland Bay District.	Waiting further instructions as to measurement, &c.
26th May, 1851	Frederick Griffin,	5,000	Situated at the head of the right branch of Sutherland's Creek, and adjoining the Twenty-Five Mile boundary line, being part of the run known as "Anaki," in the Portland Bay District.	Ditto, ditto.
3d June, 1851	James Orr, -	640	Situated on the Coliban River, so as to include the Homestead and improvements, on the run known as "Coliban," in the Western Port District.	Ditto, ditto.
16th March 1850	William Huon,	160	Situated on the Wodonga Creek, so as to include the Homestead and improvements, on the run known as "Wodonga," in the Murray District.	Ditto, ditto.
16th June, 1851	W. J. T. Clarke, -	1,280	Situated about two miles north-east of the present road to Burn Bank, so as to include the Homestead and improvements, on the run known as "Dowling Forest," in the Portland Bay District.	Ditto, ditto.
26th June, 1851	Simon Staughton	2,320	Situated on the north side of the Little River, on the run known as "Brisbane Ranges," in the Portland Bay District.	Ditto, ditto.
27th June, 1851	J. R. Hopkins, -	640	Section 21 of the Parish of Yan Yan Ghurt, being part of the run known as "Wombete," in the County of Grant.	Ditto, ditto.
19th June, 1851	David Stead, -	160	Situated on the Eastern Woorabool, adjoining a portion of 480 acres previously applied for. It forms part of the run known as "Bunjellap East," in the Portland Bay District.	Ditto, ditto.
19th June, 1851	D. C. Simson, -	2,880	Situated on the Deep Creek, and forming part of the run known as "Charlotte Plains," in the Western Port District.	Ditto, ditto.
30th June, 1851	Chas. M'Lachlan,	3,602	Situated on the Myrnong Creek, about two miles above its junction with the Werribee River. It forms part of the run known as "Pentland Hills," in Western Port District.	Ditto, ditto.
19th June, 1851	R. W. Steiglitz, -	200	Situated opposite to Bradshaw's Station, on the River Moorabool, which forms its southern and western boundary.	The portion forming part of a Reserve of 1 square mile, at the crossing place on the Moorabool.
Total, . . .			48,255 acres.	

## No. 71.

## LEGISLATIVE COUNCIL PAPER.

## RETURN OF LANDS APPLIED FOR UNDER PRE-EMPTIVE RIGHT, BUT REFUSED.

Date of Application.	Name of Applicant.	No. of Acres Applied for.	Local Description.	Cause of Refusal.
26th Sept. and 28th Oct. 1850	Griffin and Craig.	640	Situated adjoining the Township Reserve at the Grange, called "Hamilton," on the run known as "Grange Burn."	Because part of it, fronting the Grange Burn, has been marked in small allotments by Mr. Wade, and plan with descriptions sent to Sydney.
1st Nov. 1850	Thos. Bond,	320	Situated about three miles from the Township of Violet Town, at Violet Creek.	Land being claimed by Mr. Scobie.
25th Nov. 1850	Henry Buntine.	166	Situated on the run known as Bruthren Creek, in the Gipps Land District, about ten miles from the Township of Alberton.	A Township being recommended at this spot, Mr. B. could, under such circumstances, only be allowed the land on which the Homestead and improvements are situated.
26th Feb. 1851	Simon Staughton.	2100	Situated on the south side of the Little River, and forming part of the run known as "Brisbane Ranges," in the County of Grant and District of Portland Bay.	Application was for land of an irregular form, contrary to the Order in Council under which claimed.
26th Feb. 1851	John Pearson.	160	Situated on the eastern bank of the Glenelg River, and forming part of the run known as "Re-treat," in the Portland Bay District.	Portion applied for has a water frontage of twice the extent allowed by the Regulations under which it is claimed.

Surveyor-General's Office,  
Melbourne, 10th May, 1852.

(Signed)

R. HODDLE,  
Surveyor-General.

## STATISTICS.

## No. 72.

## LEGISLATIVE COUNCIL PAPERS.

## RETURN of the Number of Acres of Land under Cultivation, in the Year ended 31st March, 1851.

Wheat, . . . .	28,567	acres.	Potatoes, . . . .	2,837	$\frac{3}{4}$ acres.
Maize, . . . .	27	"	Sown Grasses, . . . .	40	$\frac{1}{2}$ "
Barley, . . . .	3,831	"			
Oats, . . . .	16,874	"	Total, . . . .	52,179	acres.

## No. 73.

## RETURN of Live Stock in Port Phillip District, on 1st Jan. 1851.

Sheep, . . . .	6,442,068.	Horses, . . . .	21,219.
Cattle, . . . .	378,806.	Pigs, . . . .	9,260.

W. LONSDALE, COLONIAL SECRETARY.

## RETURN of Live Stock within the Settled Districts, 1st Jan. 1851.

Sheep, . . . .	766,442.	Horses, . . . .	8,704.
Cattle, . . . .	70,374.	Pigs, . . . .	7,322.

## No. 74.

## IMPORTS of BREAD STUFFS during 1850.

Flour and Bread,	14,360 cwt.	Oatmeal & Pearl Barley,	142,560 lbs.
Wheat,	30,492 bushels.	Potatoes and Yams,	867 tons.
Oats,	24,261 "	Rice,	277,760 lbs.

## No. 75.

## LEGISLATIVE COUNCIL PAPER.

## ABSTRACT of the POPULATION of VICTORIA, 2d March, 1851.

POLICE DISTRICTS.	MALE.	FEMALE.	TOTAL.
Melbourne, . . . . .	12,374	10,769	23,143
Bourke, . . . . .	10,681	7,667	18,348
Grant, . . . . .	7,333	5,451	12,784
Portland, . . . . .	1,459	883	2,342
Belfast, . . . . .	2,365	1,481	3,846
Kilmore, . . . . .	1,387	677	2,064
Alberton, . . . . .	574	330	904
Total within the Settled Districts,	36,173	27,258	66,431
Males beyond the Settled Districts,	10,029	—	10,029
Married Females do. do.	—	1,708	—
Unmarried do. do.	—	2,177	3,885
Total Population, . . .	46,202	31,143	77,345
The Population of 1846 was . . .	20,184	12,695	32,879

At the same time there were only 101 houses built of Stone or Brick beyond the Settled Districts.

## No. 76.

## LEGISLATIVE COUNCIL PAPER.

## RETURN of RESERVES in the Intermediate and Unsettled Districts, up to the 1st July, 1851.

No. 39.—Murray District, . . .	80,000 acres.
" 31.—Wimmera " . . .	55,680 "
" 54.—Western Port " . . .	215,040 "
" 80.—Portland Bay " . . .	252,900 "
" 42.—Gipps' Land, " . . .	78,080 "

246 Reserves. Total, 681,700 acres.

No. 77.

THE RETURN OF PRODUCE, STOCK, &c. APPENDED TO A REPLY OF THE LIEUTENANT-GOVERNOR'S TO MR. W. NICHOLSON,

23d MAY, 1853.

CROPS.

Nature of the Crop, and the Number of Acres of Land in each Crop.

From the 1st July to 31st  
For the Year 1852,.....

## No. 77.—CONTINUED.

RETURN OF PRODUCE, STOCK, &c. APPENDED TO A REPLY OF THE LIEUTENANT-GOVERNOR'S TO MR. W. NICHOLSON,

23D MAY, 1853.

	PRODUCE.										STOCK.						Number of						
	Nature of the Produce and Quantity of each.																						
	Wheat.	Maize.	Oats.	Fyze.	Millet.	Potatoes.	Tobacco.	Wheat.	Barley.	Bushels.	Bsh.	Bsh.	Bsh.	Cwt.	Tons.	Cwt.	Tons.	Cwt.	Tons.	Horses.	Sheep.	Pigs.	
From the 1st July to 31st Dec. 1851,.....	586	34330	13231	5	—	5977	—	696	763	28036	196	11640	199679	5352019	4334								
For the Year 1852,.....	498704	61	9431	96986	—	—	4512	—	185	4591	20602	40	28324	378724	5580362	8072							

## No. 77.—CONTINUED.

RETURN, SHOWING THE GROSS AMOUNT OF SUBURBAN AND COUNTRY LAND ACTUALLY AT THIS TIME ALIENATED FROM THE CROWN AND IN THE HANDS OF THE PUBLIC.

30TH MAY, 1853.

1853. 20th May.	A.	R. P.	A.	A.	A.	A.	A.	A.	R. P.	Granted under Pre-emptive Right.	
										Settled District.	Intermediate Districts.
640046	3	5	31329	47522	8064	726961	3	5		Unsettled Districts.	Total Amount of Suburban and Country Land Alienated.

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## S U P P L E M E N T.

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The arrival of the last mail furnished the following account of a Land Sale, advertised under the signature of the Surveyor-General, and there is no doubt but the description of the land given is correct. It is as follows :

“ HAMILTON.—On the 26th and 27th October, at the Police-office, 90 lots, varying from 5 to 156 acres, and from £1 to £2 : 10s. per acre, upset price, situate in the parish of South Hamilton, on the Grange Burn River, about 50 miles from Portland, on the Melbourne Road. The whole of this land is of good quality, and well suited for agricultural purposes, a large portion of it being of the richest description, lightly timbered with gum, she-oak, banksia, and honeysuckle, and supplied with water from the Grange Burn and Muddy Creek.”

The sale took place on the appointed day, and the following quotation, extracted from the “*Geelong Advertiser*” of the 3d Nov. 1854, shows the result arrived at :

### SALE OF CROWN LANDS AT HAMILTON, On Thursday, 26th October.

SUBURBAN LOTS.—In the Parish of South Hamilton, at the Grange Burn, about fifty miles from Portland.

*Upset price £2 : 10s. per acre.*

- 1 10a 12p, Allot 1, no offer.
- 2 8a 3r 11p, Allot 2, no offer.
- 3 9a 16p, Allot 3, no offer.
- 4 8a 17p, Allot 4, no offer.
- 5 7a 3r 17p, Allot 5, no offer.
- 6 8a 3r 37p, Allot 6, no offer.
- 7 10a 12p, Allot 7, no offer.
- 8 8a 3r 11p, Allot 8, no offer.
- 9 9a 16p, Allot 9, no offer.
- 10 6a 1r 8p, Allot 10, H. Withe, £15 15s. per lot.
- 11 6a 17p, Allot 11, G. Gale, £15 10s. per lot.
- 12 6a 3r 37p, Allot 12, no offer.
- 13 5a 6p, Allot 25, R. Bloomfield, £12 12s. per lot.
- 14 5a 15p, Allot 26, S. Keen, £12 14s. 9d. per lot.
- 15 8a 2r 27p, Allot 27, D. Henderson, £21 13s. 6d. per lot.
- 16 6a 3r 32p, Allot 28, no offer.
- 17 8a 2r 8p, Allot 29, A. French, £21 7s. 6d. per lot.
- 18 6a 16p, Allot 30, R. Corse, £15 5s. per lot.
- 19 5a 3r 24p, Allot 31, W. Wyatt, £15 per lot.
- 20 6a 1r 36p, Allot 32, J. Caple, £30 5s. per lot.

- 21 5a 3r 21p, Allot 33, W. Wyatt, £31 per lot.  
 22 8a 2r 38p, Allot 34, W. Wyatt, £21 17s. per lot.  
 23 6a 3r 32p, Allot 35, no offer.  
 24 9a 3r 26p, Allot 36, no offer.  
 25 7a 2r 12p, Allot 37, no offer.  
 26 6a 1r 11p, Allot 38, W. Wyatt, £30 per lot.  
 27 5a 1r 29p, Allot 39, A. Thomson, £34 per lot.  
 28 9a 2r 26p, Allot 40, no offer.  
 29 9a 1r 15p, Allot 41, no offer.  
 30 5a 1r 24p, Allot 43, A. Thomson £13 10s. per lot.  
 31 9a 2r 16p, Allot 44, no offer.  
 32 18a 4p, Allot 45, no offer.  
 33 5a 2r 22p, Allot 46, W. Wyatt, £15 per lot.  
 34 5a 2r 22p, Allot 47, W. Wyatt, £17 10s. per lot.  
 35 10a 4p, Allot 48, no offer.  
 36 6a 1r 36p, Allot 49, W. Carter, £16 3s. 9d. per lot.  
 37 7a 3r 27p, Allot 50, J. Robertson, £19 16s. per lot.  
 38 7a 2r 27p, Allot 51, no offer.  
 39 7a 2r 27p, Allot 52, no offer.  
 40 8a 1r 2p, Allot 53, no offer.  
 41 8a 3r 16p, Allot 54, no offer.  
 42 9a 1r 30p, Allot 55, no offer.  
 43 10a 4p, Allot 56, no offer.  
 44 8a 2r 22p, Allot 57, D. M'Kenzie, £31 per lot.  
 45 8a 2r 22p, Allot 58, J. Reutsch, £21 12s. per lot.  
 46 9a 1r 17p, Allot 59, J. Reutsch, £23 7s. 10d. per lot.  
 47 9a 1r 17p, Allot 60, no offer.  
 48 10a 4p, Allot 61, no offer.  
 49 10a 1r 2p, Allot 62, no offer.  
 50 10a 1r 20p, Allot 63, no offer.

The reader will observe that there was not a single offer for the first 9 lots, and that, out of the whole day's sale of 50 lots, only 30 lots found purchasers. It certainly requires no demonstration to prove, from the foregoing facts, that there is a glut of land "of the richest description, lightly timbered, and supplied with water," in the market, for sale, at moderate prices; and that it is a gross fallacy, on the part of the Government, to misconstrue such sales to private speculators into "public purposes."

The following statement shows a very satisfactory state of the Revenue; and as half of the territorial Revenue is reserved for Emigration purposes, it will enable the Emigration Commissioners to despatch a greater number of emigrants to Victoria this year than they ever did in any year before; and it is necessary, both on account of the Colony and of the *ill employed* poor people of the mother country who are desirous of emigrating, that such ample funds should be appropriated as speedily as possible.

COMPARATIVE STATEMENT OF THE REVENUE OF THE COLONY OF VICTORIA, RECEIVED INTO THE COLONIAL TREASURY,  
DURING THE YEARS ENDED 30th SEPTEMBER, 1853, AND 30th SEPTEMBER, 1854, RESPECTIVELY.

HEAD OF REVENUE.	Year ended 30th September, 1853.		Year ended 30th September, 1854.		Increase upon the Year ended 30th Sept. 1854.		Decrease upon the Year ended 30th Sept. 1854.	
	£	s. d.	£	s. d.	£	s. d.	£	s. d.
GENERAL REVENUE.								
Gold—Proceeds of Gold Licences,.....	726,111	16	8	391,253	5	5		
Escort Fees,.....	50,608	19	10	57,798	16	8	7,189	16
Treasury and Custody Fees,.....	8,087	1	0	6,908	8	1		
Other Gold Revenues,.....				101	17	10	101	17
Customs—Duties on Spirits,.....	374,457	15	8	607,719	10	6		
Duties on Tobacco,.....	96,640	6	6	138,223	18	6		
Duties on Wine,.....	34,425	0	0	69,299	18	2		
Duties on Beer, &c,.....				53,777	1	11		
Duty on Tea,.....	38,176	18	2					
Duty on Coffee,.....	10,113	18	5	43,266	15	8		
Ad valorem Duties on Foreign Goods,	30	2	9	13,925	12	9		
	653,843	19	6	926,212	17	6	372,368	18
Fees on Registration of Bonded Warehouses, Port and Harbour Dues,.....				3,500	0	0	3,500	0
Postage,.....	14,705	14	1	24,704	7	9	9,998	13
Auction Duty,.....	21,887	14	11	55,425	14	6	33,537	19
Assessment on Stock,.....	8,469	19	10	0	12	4		
Licences—To Auctioneers,.....	186	10	8	61,054	13	3	60,868	2
For the Sale of Fermented and Spirituous Liquors,.....	3,394	3	4	12,178	2	4	8,783	19
Night Licences to Publicans and for Billiard Tables,.....	12,870	16	8	11,292	4	4	99,421	7
All other Licences,.....	890	0	0	1,370	0	0	1,480	0
Police Reward Fund,.....	291	4	6	2,238	4	2	1,946	19
Fines and Forfeitures—Collected by the Sheriff,.....	1,922	0	4	3,740	16	0	1,818	14
Collected by the Courts of General Sessions,.....	55	0	0	191	17	0	136	17
Collected by the several County Courts,.....				41	0	0	41	0
Collected by the several Courts of Petty Sessions,.....	28,337	15	6	30,860	17	7	2,523	2
7,508	14	6		23,060	18	2	15,552	3
309	7	4		1,251	13	10	942	6
Crown's share of Seizures by the Customs,.....	1,966	14	6	4,015	6	7	2,048	11
Proceeds of the Sale of Confiscated and Unclaimed Property,.....	3,919	11	0	6,849	7	3	2,929	16
Fees—Of Civil Offices,.....				6	11	2	6	11
Of the Courts of General Sessions,.....								
Of the several Offices of the Supreme Court,.....	10,635	1	2	25,132	17		14,497	16

COMPARATIVE STATEMENT OF THE REVENUE OF THE COLONY OF VICTORIA, RECEIVED INTO THE COLONIAL TREASURY,  
DURING THE YEARS ENDED 30th SEPTEMBER, 1853, AND 30th SEPTEMBER, 1854, RESPECTIVELY.

HEAD OF REVENUE.	Year ended 30th September, 1853.		Year ended 30th September, 1854.		Increase upon the Year ended 30th Sept. 1854.		Decrease upon the Year ended 30th Sept. 1854.	
	£	s. d.	£	s. d.	£	s. d.	£	s. d.
<b>GENERAL REVENUE.</b>								
Fees—Of the Courts of Request and County Courts,.....	1,219	6	8	5,214	16	4	3,995	9
Of the several Courts of Petty Sessions,.....	1,479	8	5	2,269	7	0	789	18
Passengers' Rates,.....	5,793	15	0	15,436	0	0	9,642	5
Rents,.....	2,157	16	11	1,779	11	3	—	—
Reimbursements in aid of Expenses incurred by Government,.....	1,478	12	1	12,609	1	5	11,130	9
Collections by the Accountant of the Government Printing Office,.....	1,988	12	11	2,317	6	8	329	3
Sale of Government Property,.....	279	12	6	9,119	17	11	8,840	5
Receipts of the Electric Telegraph Department,.....	—	—	—	75	0	4	75	0
Miscellaneous Receipts,.....	486	7	9	4,721	7	3	4,234	19
	1,469	885	16	7	1,803	733	5	4
	677	732	5	1	343,884	16	4	
<b>TERRITORIAL REVENUE.</b>								
Proceeds of the Sale of Land and Town Allotments,.....	1,204	761	13	2	1,600	389	15	1
Immigration Remittances, .....	1,869	15	6	6,446	0	0	4,576	4
Leases and Licences to occupy Crown Lands,.....	30,015	15	9	35,731	1	1	5,715	5
Licences to Cut Timber and to Camp on Crown Lands,.....	8,805	1	3	12,017	2	0	3,212	0
Proceeds of the Sale of Wool from the Aboriginal Station,.....	448	5	2	1,006	16	0	658	10
Stoppages and Repayments for Rations,.....	3,586	6	1	3,410	13	2	—	—
Sale of Crown Property,.....	—	—	—	1,009	7	2	1,009	7
Rents of Government Quarries and Premises,.....	2,233	18	0	3,566	11	8	1,332	18
Received for Improvements on Land Sold by the Crown,.....	70	0	0	4,974	0	0	4,904	0
Miscellaneous Receipts,.....	87	0	0	222	15	5	135	15
Repayments from other Governments,.....	3,464	6	6	—	—	—	3,464	6
	1,255	341	1	4	1,668	774	1	7
	2,725	226	17	11	3,472	507	6	11
	417,071	19	7		1,094,804	4	8	
Totals,.....	—	—	—	—	—	—	347,523	15
Increase on the Aggregate of the General Revenue upon the Year,.....	—	—	—	—	—	—	333,847	8
Increase on the Aggregate of the Territorial Revenue upon the Year,.....	—	—	—	—	—	—	413,433	0
Total Increase upon the Year,.....	—	—	—	—	—	—	747,280	9
Audit Office, Melbourne, 30th September, 1854.	EDWARD GRIMES, Auditor-General.							



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